

Supreme Court Case No. S224611

SUPREME COURT
FILED

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IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

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Deputy

CHRISTOPHER MENDOZA, an individual, on behalf of
himself and all other persons similarly situated,
Plaintiff-Appellant-Petitioner;

MEAGAN GORDON,
Plaintiff-Intervenor-Petitioner;

v.

NORDSTROM, INC., a Washington Corporation
authorized to do business in the State of California,
Defendant-Appellee-Respondent.

After a Request by the Ninth Circuit Court of Appeals
Consolidated Nos. 12-57130 and 12-57144

**RESPONDENT NORDSTROM, INC.'S MOTION TO REQUEST
JUDICIAL NOTICE; MEMORANDUM OF POINTS AND
AUTHORITIES; PROPOSED ORDER**

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NORDSTROM, INC.**

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Attorneys for Defendant-Appellee-Respondent
NORDSTROM, INC.

MOTION AND NOTICE OF MOTION

Pursuant to California Rules of Court 8.520(g) and 8.252(a) and Evidence Code sections 451, 452 and 459, Respondent Nordstrom, Inc. ("Nordstrom") hereby submits this Motion to Request Judicial Notice ("Motion"). The Motion is based on the attached Memorandum of Points and Authorities and the Declaration of Dawn Fonseca. The documents and information to be judicially noticed are as follows and are attached as Exhibits "1" through "46" to the Declaration of Dawn Fonseca filed concurrently herewith:

Exhibit 1: Webster's New International Dictionary 2896 (2nd ed. 1940) (definition of "week").

Exhibit 2: Webster's New International Dictionary 2896 (2nd ed. 1948) (definition of "week").

Exhibit 3: Merriam-Webster's Collegiate Dictionary 1418 (11th ed. 2004) (definition of "week") (MER01544-MER01545).

Exhibit 4: Black's Law Dictionary 1731 (9th ed. 2009) (definition of "week") (MER01540-MER01542).

Exhibit 5: Oxford English Dictionary (2015) (definition of "week"), available at <http://www.oed.com/view/Entry/226785?rskey=NU2ntE&result=1&print>.

Exhibit 6: Webster's New International Dictionary 1702 (2nd ed. 1940) (definition of "one").

Exhibit 7: Webster's New International Dictionary 1702 (2nd ed. 1948) (definition of "one").

Exhibit 8: Merriam-Webster's Dictionary (2015) (definition of "one"), available at <http://www.merriam-webster.com/dictionary/one>.

Exhibit 9: A Standard Dictionary of the English Language 302 (1894) (definition of "cause").

Exhibit 10: Webster's Revised Unabridged Dictionary 229 (1913) (definition of cause), available at <http://machaut.uchicago.edu/?resource=Webster%27s&word=cause&use1913=on>.

Exhibit 11: Merriam-Webster's Collegiate Dictionary 196 (11th ed. 2004) (definition of "cause") (SER0263-SER0267).

Exhibit 12: Oxford English Dictionary (2015) (definition of "cause"), available at <http://www.oed.com.proxygw.wrlc.org/view/Entry/29148?isAdvanced=false&result=2&rskey=0Vw4zf&>.

Exhibit 13: American Heritage Dictionary (5th ed. 2015) (definition of "cause"), available at <https://www.ahdictionary.com/word/search.html?q=cause>.

Exhibit 14: A Standard Dictionary of the English Language 608, (1894) (definition of "entitle").

Exhibit 15: Webster's Revised Unabridged Dictionary 497 (1913)

(definition of “entitle”), available at <http://machaut.uchicago.edu/?resource=Webster%27s&word=entitle&use1913=on>.

Exhibit 16: Merriam-Webster’s Collegiate Dictionary 417 (11th ed. 2004) (definition of “entitle”) (SER0263-SER0267).

Exhibit 17: Oxford English Dictionary (2015) (definition of “entitle”), available at <http://www.oed.com.proxygw.wrlc.org/view/Entry/62903?print>.

Exhibit 18: Merriam-Webster’s Collegiate Dictionary 1001 (11th ed. 2004) (definition of “provide”) (SER0263-SER0267).

Exhibit 19: Merriam-Webster’s Collegiate Dictionary 1058 (11th ed. 2004) (definition of “require”) (SER0263-SER0267).

Exhibit 20: American Heritage Dictionary (5th ed. 2015) (definition of “permit”), available at <https://www.ahdictionary.com/word/search.html?q=permit>.

Exhibit 21: An Act to Provide for a Day of Rest from Labor, S. 72, 30th Sess. (initial draft, Cal. Jan. 9, 1893) (MER01497).

Exhibit 22: An Act to Provide for a Day of Rest from Labor, Assemb. 190, 30th Sess. (initial draft, Cal. Jan. 11, 1893) (MER01498).

Exhibit 23: An Act to Provide for a Day of Rest from Labor, Statutes of Cal., Ch. XLI, 30th Sess., at 54 (approved, Cal. 1893) (MER01499).

Exhibit 24: *In The Assembly. Bills of Great Importance to the Agricultural Districts*, S.F. Chron., Jan. 12, 1893, at 4 (regarding Sunday rest bill) (MER01500-MER01502).

Exhibit 25: Assemb. B. No. 2100, at 1-3, 22-23 (Cal. Apr. 24, 1937) (MER01504-MER01506).

Exhibit 26: An Act to Add Section 556 to the Labor Code, Relating to Days of Rest of Employees, Statutes of Cal., Ch. 1267, 54th Sess., at 3212-3213 (approved, Cal. 1941) (MER01508).

Exhibit 27: Assemb. B. 1396, Summary Digest of Statutes Enacted and Proposed Const. Amend. Submitted to the Electors, 54th Sess., at 161 (Cal. 1940-1941) (MER01509-MER01510).

Exhibit 28: Wages and Hours, Digest of Cal. Labor Laws, at 6-9 (2nd ed. Feb. 1944) (MER01511-MER01515).

Exhibit 29: Working Hours, Deering's Cal. Codes – Labor Code of the State of Cal., at 44-45 (1943) (MER01517-MER01520).

Exhibit 30: Assemb. B. 60 (approved, Cal. 1999) (MER01522-MER01529).

Exhibit 31: I.W.C. Order No. 5, Mercantile Indus., (Cal. 1917) (MER01547).

Exhibit 32: I.W.C. Order No. 5, Mercantile Indus., (Cal. 1918) (MER01549-MER01550).

Exhibit 33: I.W.C. Order No. 5, Mercantile Indus., (Cal. 1920)

(MER01552-MER01556).

Exhibit 34: I.W.C. Order No. 5, Mercantile Indus., (Cal. 1922)

(MER01557-MER01558).

Exhibit 35: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1943)

(MER01560-MER01567).

Exhibit 36: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1947)

(MER01569-MER01577).

Exhibit 37: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1952)

(MER01579-MER01587).

Exhibit 38: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1957)

(MER01589-MER01597).

Exhibit 39: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1963)

(MER01599-MER01609).

Exhibit 40: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1968)

(MER01611-MER01625).

Exhibit 41: I.W.C. Order No. 7, Mercantile Indus., (Cal. 1976)

(MER01627-MER01637).

Exhibit 42: Statement as to the Basis, Wage Orders 1-4, 7, 9, 11, 12, 17 and 20 (eff. Jan. 1, 2001) (available at <http://www.dir.ca.gov/iwc/statementbasis.htm>) (MER01651-MER01671).

Exhibit 43: Selected Excerpts, The 2002 Update Of The DLSE Enforcement Policies and Interpretations Manual (Revised) (Mar. 2006),

available at <http://www.dir.ca.gov/dlse/manual-instructions.htm>
(MER01651-MER01671).

Exhibit 44: Understanding AB 60: An In Depth Look at the Provisions of the "Eight Hour Day Restoration and Workplace Flexibility Act of 1999," Cal. Dep't of Indus. Relations, Div. of Labor Standards Enforcement (Dec. 23. 1999), available at <https://www.dir.ca.gov/dlse/AB60update.htm> (MER0610-MER0620).

Exhibit 45: Oxford Dictionaries (2015) (usage note regarding phrase "any one"), available at http://www.oxforddictionaries.com/us/definition/american_english/anyone.

Exhibit 46 Webster's New International Dictionary 121 (2nd ed. 1940) (definition of "any one").

By concurrent service of this Motion on Petitioner Mendoza's and
Petitioner Gordon's attorneys, Nordstrom provides notice of this Motion to
all parties.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Ninth Circuit has asked the California Supreme Court to address three questions related to California's rest day laws, codified at California Labor Code sections 551, 552 and 556. As noted in the Ninth Circuit's Order certifying the questions to the California Supreme Court, "no controlling California precedent answers any of the certified questions of statutory interpretation." *Mendoza v. Nordstrom, Inc.*, 778 F.3d 834, 838 (9th Cir. 2015). However, while there is no controlling case law on the subject, the rest day laws do have a rich legislative and regulatory history that was extensively relied upon by the trial court in this case to interpret the rest day laws and find in favor of Nordstrom. *See Mendoza v. Nordstrom, Inc.*, 2012 U.S. Dist. LEXIS 188379, *15 (C.D. Cal. Sept. 21, 2012) (the "relevant legislative history of the day of rest statutes are also consistent with this interpretation"). Accordingly, Nordstrom requests the California Supreme Court to take judicial notice of the legislative and regulatory history of the rest day laws, along with dictionary definitions of key terms at issue, in order to decide the critical questions certified to it by the Ninth Circuit.

II. STANDARD FOR JUDICIAL NOTICE

California Rules of Court 8.520(g) and 8.252(a) permit a party to seek judicial notice by the California Supreme Court under Evidence Code

section 459, by serving and filing a separate motion with a proposed order.

Pursuant to Evidence Code section 459, a reviewing court *must* take judicial notice of any matter specified in Section 451 and *may* take judicial notice of any matter specified in Evidence Code section 452.¹ Cal. Evid. Code § 459(a). Evidence Code section 451 then requires judicial notice to be taken of: (1) the “public statutory law of this state”; (2) the regulatory law of this state, subject to certain verifications; (3) the “true signification of all English words and phrases and of all legal expressions”; and (4) “[f]acts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute.” Cal. Evid. Code §451 (a), (b), (e), (f). For its part, Evidence Code section 452 also permits courts to take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” Cal. Evid. Code § 452 (h).

III. ARGUMENT

A. The Documents Are Proper Subjects Of Judicial Notice.

Judicial notice is proper here because the documents attached as Exhibits 1 through 46 to the Declaration of Dawn Fonseca constitute either:

¹ California Evidence Code section 453 further makes it mandatory for a court to judicially notice documents proffered under California Evidence Code section 452, where the adverse party has sufficient notice of the material and the court has sufficient information to enable it to take judicial notice. Both such conditions are met here as established further below.

(1) undisputed historical statutory and regulatory law of this state; (2) dictionary definitions of key terms at issue in the rest day statutes; and/or (3) facts that are not subject to dispute, as they are either universally known or are capable of immediate and accurate determination. *See* Cal. Evid. Code §§ 451(a), (e), (f), 452(h).

Specifically, Exhibits 21-23, 25-30 all constitute initial and final drafts of legislation, the final codified statutory language of the rest day laws, and official digests and/or summaries regarding the same. As such, they are entitled to judicial notice.² *See Ennabe v. Manosa*, 58 Cal. 4th 697, 709 (2014) (“We grant defendant’s request for judicial notice of the legislative history of the 1986 amendments . . .”); *Sierra Club v. Super. Ct.*, 57 Cal. 4th 157, 171 (2013) (“In considering the history of the statutes at issue, we grant the requests of the parties and amici curiae to take judicial notice of legislative history documents for Assembly Bill . . .”).

Similarly, Exhibits 31-41 all constitute historical wage orders, i.e. regulations or quasi-legislative enactments, imposed by the Industrial Welfare Commission (“IWC”). As such, they too are entitled to judicial notice. *See Reynolds v. Bement*, 36 Cal. 4th 1075, 1083 (2005) (taking

² To the extent that some of these materials are considered “published,” judicial notice may technically not be required. *See Quelimane Co. v. Stewart Title Guaranty Co.*, 19 Cal. 4th 26, 46 (Cal. 1998) (“A request for judicial notice of published material is unnecessary. Citation to the material is sufficient.”). In an abundance of caution, Nordstrom has submitted all such legislative history, whether published or not, with this motion.

judicial notice of “historical wage orders”); *Morgan v. Wet Seal, Inc.*, 210 Cal. App. 4th 1341, 1360 (2012) (noting with approval that the “trial court took judicial notice of the content of Wage Order 7”).

Likewise, Exhibits 42-44 are entitled to judicial notice because they constitute IWC and Division of Labor Standards & Enforcement (“DLSE”) guidance regarding their enforcement of the rest day regulations. The existence of this guidance is not subject to dispute. *See e.g. United Parcel Serv. Wage & Hour Cases*, 196 Cal. App. 4th 57, 65 (2011) (taking notice of “the administrative records of the IWC’s wage orders”); *Johnson v. Arvin-Edison Water Storage Dist.*, 174 Cal. App. 4th 729, 739 (2009) (taking “judicial notice of documents relating to wage order No. 17 and of [a] Division of Labor Standards Enforcement pamphlet”); *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1208 (2008) (taking judicial notice of a memo from the DLSE Labor Commissioner regarding the agency’s enforcement of new laws); *Cal. Sch. of Culinary Arts v. Lujan*, 112 Cal. App. 4th 16, 26 (2003) (taking judicial notice of internal IWC documents); *Church v. Jamison*, 143 Cal. App. 4th 1568, 1579 (2006) (taking judicial notice of DLSE Manual and opinion letter, even though such materials were not given deference).

For their part, Exhibits 1-20 and 45-46 constitute dictionary definitions of key terms, which illuminate the “true signification” of the rest day laws and are therefore subject to judicial notice pursuant to California

Evidence Code section 451(e). *Sierra Club v. Super. Ct.*, 57 Cal. 4th 157, 171 (2013) (taking judicial notice of the dictionary definition of a key term); *Balzaga v. Fox News Network, LLC*, 173 Cal. App. 4th 1325, 1335 (2009) (trial court took judicial notice of dictionary definitions); *Falkowski v. Imation Corp.*, 132 Cal. App. 4th 499, 508 (2005) (“[P]laintiffs have requested that we take judicial notice of various dictionary definitions pursuant to Evidence Code section 451, subdivision (e). Their motion is granted.”).

Finally, Exhibit 24 is a newspaper article describing the rest day laws at the time they were enacted in 1893 and further sheds light on the legislative history of the rest day laws. The existence of the newspaper article regarding the rest day statutes is not reasonably subject to dispute and therefore is the proper subject of judicial notice. *See Cnty. of Santa Clara v. Super. Ct.*, 170 Cal. App. 4th 1301, 1312 (2009) (taking judicial notice of “10 newspaper articles”); *Kashian v. Harriman*, 98 Cal. App. 4th 892, 901 (2002) (taking judicial notice of “news articles that had appeared in the Fresno Bee . . . only insofar as they help to put the letter into context, and not for the truth of anything stated in them”); *Seelig v. Infinity Broad. Corp.*, 97 Cal. App. 4th 798, 808 (2002) (taking judicial notice of newspaper articles because: “Without assuming the truth of the assertions contained in the news articles, the fact that news articles discussing topics

provoked by the Show were published is not reasonably subject to dispute.”).³

Thus, all of the documents submitted to the Court with this Motion are properly subject to judicial notice, pursuant to California Evidence Code sections 451 and/or 452.

B. Judicial Notice Is Proper Where The Documents Were Presented To And Relied Upon By The Trial Court.

With only a few exceptions, all of the Exhibits at issue in Nordstrom’s Motion to Request Judicial Notice were submitted to the trial court in this case by either Respondent Nordstrom or the Petitioners Mendoza and Gordon. Declaration of Dawn Fonseca at ¶ 9. Therefore, no such document presents a surprise to Petitioners. Moreover, not only did the trial court have an opportunity to review the information presented, it extensively relied upon such information when interpreting the rest day rules and awarding judgment in favor of Nordstrom. *See Mendoza*, 2012 U.S. Dist. LEXIS 188379, at *20-22 (“Understanding the day of rest statutes to permit employees to waive their seventh day of rest is also

³ All of the Exhibits submitted through this Motion have further been authenticated, as explained in the Declaration of Dawn Fonseca. *See also People v. Sanchez*, 24 Cal. 4th 983, 992, fn. 4 (2001); *People v. Brown*, 6 Cal. 4th 322, 334 (1993); *People v. Connor*, 111 Cal. App. 4th 669, 681 fn. 3 (2004) (all referencing and/or utilizing documents supplied by Legislative Intent Service); *Whaley v. Sony Computer America, Inc.*, 121 Cal. App. 4th 479, 487 (2004) (the declaration of a Legislative Intent Service attorney to the effect that the copies provided are true and correct copies of the originals is sufficient to authenticate the materials).

consistent with the regulatory history of the rest day provisions.”).⁴ Consequently, this Court should likewise take judicial notice of the meaning, legislative and regulatory history of the rest day laws, as submitted to the Court with this Motion.

C. Judicial Notice Is Also Proper For The Documents That Are Now Being First Submitted To This Court.

The only documents that are subject to this Motion to Request Judicial Notice that have not been previously submitted to the trial court in this case are: (1) dictionary definitions of key terms; and (2) additional excerpts from the DLSE Manual.⁵ While these documents are technically new to the litigation, the matters reflected therein do not present an unfair surprise to Petitioners and should be considered by this Court as explained below. *See e.g. People v. Hardy*, 2 Cal. 4th 86, 134 (1992) (explaining that judicial notice may be improper where “the matter has not been presented to and considered by the trial court in the first instance” but taking notice of such matters where the request for judicial notice is unopposed and the matters to be judicially noticed are not reasonably open to dispute (quoting

⁴ Although Nordstrom submitted the documents as a formal request for judicial notice, the trial court did not issue a formal order thereon. However, the trial court relied upon and referenced such documents when issuing its final decision regarding the merits of the case. *See id.*

⁵ Specifically: Exhibit 1-2, 5 (additional definitions of “week”); Exhibit 6-8 (new definitions of “one”); Exhibits 9-10, 12-13 (additional definitions of “cause”); Exhibits 14-15, 17 (additional definitions of “entitle”); Exhibits 20 (new definition of “permit”); Exhibit 43 (additional sections of the DLSE Manual included in the excerpts presented); and Exhibits 45-46 (new definitions of “any one”).

People v. Preslie, 70 Cal. App. 3d 486, 493 (1977)); *Kaiser Found. Health Plan, Inc. v. Lifeguard, Inc.*, 18 Cal. App. 4th 1753, 1762 (1993) (taking judicial notice of matters not submitted to trial court where other party “referred extensively to [the] materials in its brief”).

Specifically, with respect to the dictionary definitions at issue, they all pertain to the plain meaning of key terms in the rest day statutes, which meaning has been at issue throughout the litigation. The parties have therefore had ample opportunity to perform their own research and advance their own interpretation of these terms. Indeed, Petitioners cannot possibly argue that the additional definitions submitted to this Court for “week,” “cause,” and “entitle” present any unfair surprise because the new definitions are consistent with those previously submitted by Nordstrom to the trial court and merely represent additional authority in the same vein. Likewise, for the new definitions of the terms “one” and “any one,” Petitioners cannot claim to be prejudiced by dictionary definitions of common terms used in every day parlance, which are also found in the rest day statutes. Similarly, the dictionary definition of “permit” merely defines a term Petitioners themselves have advanced as an alternative meaning for the term “cause” in California Labor Code section 552 and therefore cannot pose an unfair surprise.

With respect to the addition of several sections of the DLSE Manual, that also does not present an unfair surprise. To the contrary, the DLSE

Manual has been cited by both parties at great length in their briefing to this Court and Nordstrom previously requested the trial court to take judicial notice of selected excerpts of the DLSE Manual. Nordstrom now merely adds additional excerpts to those already subject to judicial notice by the trial court.

Indeed, regardless of whether such documents were presented to the trial court in the first instance, the procedural posture of this case—wherein, the Ninth Circuit certified legal questions to the California Supreme Court—should permit Nordstrom to present any and all legal support for its interpretation of the rest day laws to this Court so that it can accurately decide the nature of the employer's duties created by Sections 551-552 and 556 once and for all. In other words, given the procedural posture, this Court should find that the parties have every right and in fact the obligation to present all available extrinsic legal evidence in support of their interpretation of the meaning of the rest day laws, whether or not such legal evidence was presented at the trial court level.⁶

⁶ In any case, because Petitioners have the opportunity to file a reply, they will be able to respond to and address the legal evidence submitted by Nordstrom in that brief, as needed.

D. Judicial Notice Is Proper Because The Information Is Relevant And Of Substantial Consequence To The Determination Of The Questions Certified By The Ninth Circuit.

A party requesting judicial notice must show that the documents to be noticed are “both relevant to and helpful toward resolving the matter.” *Deveny v. Entropin, Inc.*, 139 Cal. App. 4th 408, 418 (2006). Here, the legislative and regulatory history information and dictionary definitions are directly relevant and are of substantial consequence to the determination of the questions certified.

Indeed, to determine the meaning of a statute, courts must “look first to the words of the statutes, giving them their usual and ordinary meaning.” *Lennane v. Franchise Tax Bd.*, 9 Cal. 4th 263, 268 (1994) (internal quotations omitted). Thus, the dictionary definitions found in Exhibits 1-20 and 45-46, which define or provide context for the terms found within California Labor Code sections 551-552 and 556, are relevant to this Court’s determination of what the rest day laws require.

If the plain language of a statute is “susceptible of more than one reasonable interpretation,” courts may then use a variety of extrinsic aids to ascertain and effectuate legislative intent. *Nolan v. City of Anaheim*, 33 Cal. 4th 335, 340 (2004). Such extrinsic aids include “legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is apart.” *Id.* Within this context, the

legislative history (found in Exhibits 21-30) and the regulatory history (found in Exhibits 31-41) of the rest day laws are relevant to determining what the legislature intended when it enacted the rest day laws. Likewise, the DLSE's contemporaneous administrative construction (found in Exhibits 42-44) is relevant to this Court's inquiry in interpreting the true meaning of the rest day laws.

That the majority of the material at issue in this Motion was previously submitted to and extensively relied upon by the trial court in this case is indicative of the information's relevance and helpfulness. *Mendoza*, 2012 U.S. Dist. LEXIS 188379 at *22 ("Interpreting the day of rest statutes to permit waiver of a day of rest is consistent with their history, and consistent with the evolution of the Mercantile Wage Orders.") Indeed, without the benefit of reviewing the legislative and regulatory history information and related documentation submitted with this Motion, this Court will be unable to fully parse the rest day laws or provide resolution to the parties and the Ninth Circuit regarding the same.

IV. CONCLUSION

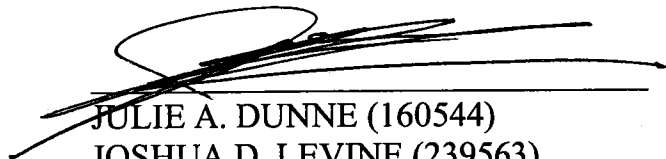
Documents comprising the meaning, legislative and regulatory history of the rest day laws should be judicially noticed because they are directly relevant and are of substantial consequence to the question of what the rest day laws require from California employers. They provide guidance on legal theories that were presented to the trial court, which

Petitioners had and will further have the opportunity to address. Moreover, they are not reasonably subject to dispute and are from a source of reasonably indisputable accuracy.

For all of the foregoing reasons, Nordstrom respectfully requests that this Court grant its Motion To Request Judicial Notice.

Dated: September 1, 2015

Respectfully submitted,



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Attorneys for Defendant-Appellee-
Respondent
NORDSTROM, INC.

[PROPOSED] ORDER

Good cause appearing, IT IS HEREBY ORDERED that Respondent Nordstrom Inc.'s Motion To Request Judicial Notice is granted in full.

Dated: _____

The Honorable Chief Justice or
Associate Justice of the California
Supreme Court

PROOF OF SERVICE BY VIA OVERNIGHT COURIER

I am employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 501 W. Broadway, Suite 900, San Diego, California 92101.3577. On September 1, 2015, by depositing a true copy of the same enclosed in a sealed envelope, with delivery fees provided for, in an overnight delivery service pick up box or office designated for overnight delivery, and addressed as set forth below.

**RESPONDENT NORDSTROM INC.'S MOTION TO
REQUEST JUDICIAL NOTICE; MEMORANDUM OF POINTS
AND AUTHORITIES; PROPOSED ORDER**

in a sealed envelope, postage fully paid, addressed as follows:

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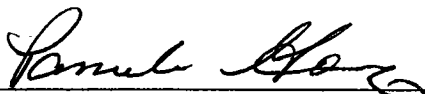
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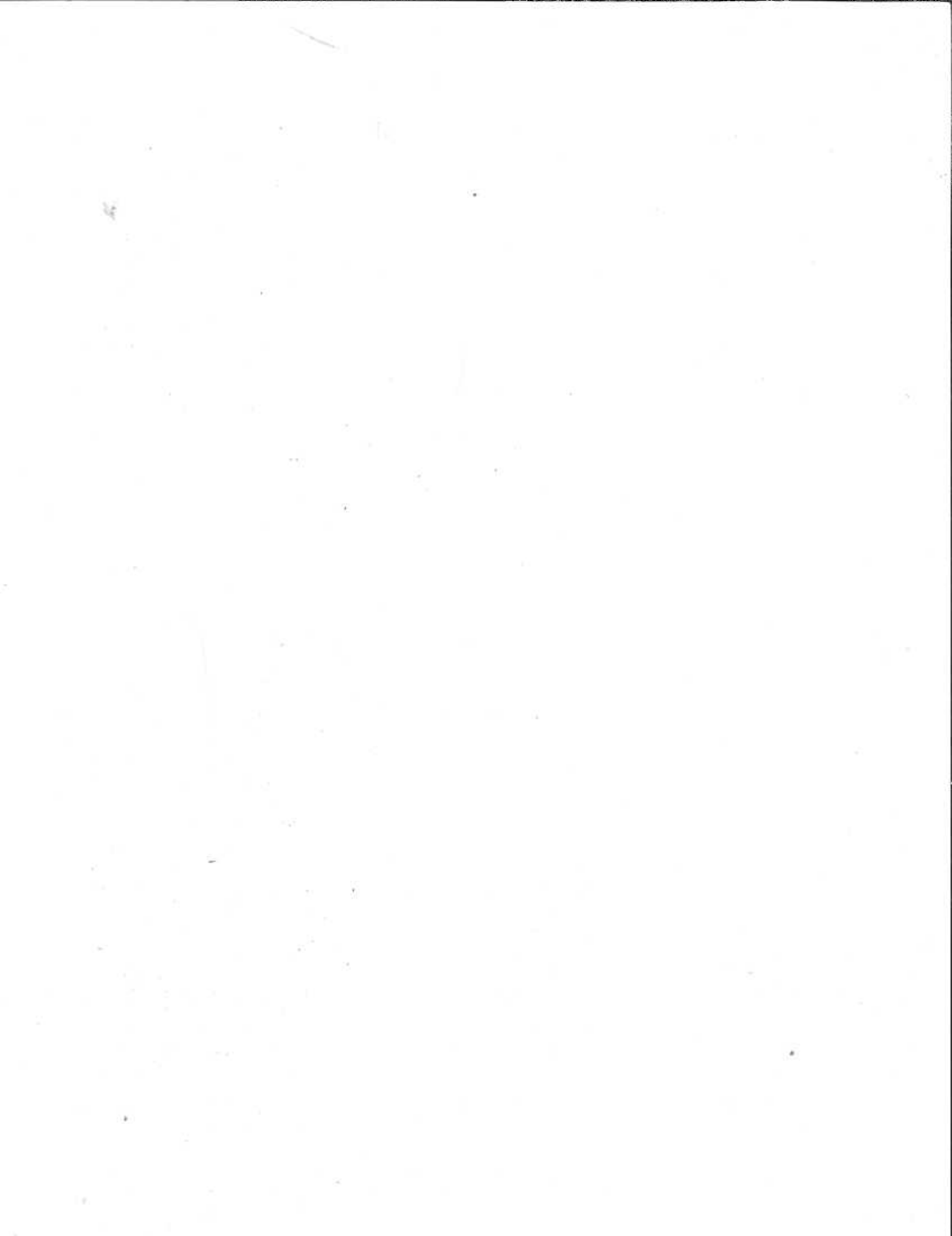
Supreme Court

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 1, 2015, at San Diego, California.


Pamela Gomez



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dangerous weapon. (17c) An object or device that, because of the way it is used, is capable of causing serious bodily injury. [Cases: Weapons ◊8.]

deadly weapon. (16c) Any firearm or other device, instrument, material, or substance that, from the manner in which it is used or is intended to be used, is calculated or likely to produce death. • In some states, the definition encompasses the likelihood of causing either death or serious physical injury. — Also termed **lethal weapon**. Cf. DANGEROUS INSTRUMENTALITY. [Cases: Assault and Battery ◊56.]

deadly weapon per se. (1872) A weapon that is deadly in and of itself or would ordinarily result in death by its use <a gun is a deadly weapon per se>. — Also termed **per se deadly weapon**. [Cases: Assault and Battery ◊56.]

lethal weapon. See **deadly weapon**.

nondeadly weapon. See **LESS-LETHAL**.

nonlethal weapon. See **LESS-LETHAL**.

weapon of mass destruction. (*usu. pl.*) A weapon that is intended to kill human beings, without discriminating between combatants and noncombatants, on a massive scale. • Among the most frequently cited examples are nuclear weapons and chemical weapons. — Abbr. WMD.

wear, n. [*fr. Saxon were* "a taking"] *Hist.* A dam made of stakes interlaced by twigs of willows that are placed across a river to more easily accommodate the netting of fish. — Also termed **weir**.

wear and tear. (17c) Deterioration caused by ordinary use; the depreciation of property resulting from its reasonable use <the tenant is not liable for normal wear and tear to the leased premises>. — Also termed **fair wear and tear**; **natural wear and tear**. [Cases: Landlord and Tenant ◊55, 160.]

"'Fair wear' is the deterioration caused by the reasonable use of the premises; 'fair tear' is the deterioration caused by the ordinary operation of natural forces. A tenant's repairing covenant commonly exempts the tenant from the obligation to repair damage characterisable as 'fair wear and tear' (sometimes called 'reasonable wear and tear'). In the absence of such an exempting provision, a covenant to repair requires the repairing of damage characterisable as fair wear and tear. Where a covenant to repair exempts the tenant from liability for 'fair wear and tear', he is not responsible for deterioration or dilapidation caused by the reasonable use of the house by the tenant and the ordinary operation of natural forces." Peter Butt, *Land Law* 256 (2d ed. 1988).

Webb-Pomerene Act. A federal law, originally enacted in 1918, that provides a qualified exemption for an export business against the prohibitions of the antitrust laws. 15 USCA §§ 61 et seq.

"The Webb-Pomerene Act was passed to aid and encourage our manufacturers and producers to extend our foreign trade. Congress believed that American firms needed the power to form joint export associations in order to compete with foreign cartels, but while Congress was willing to create an exemption from the antitrust laws to serve this narrow purpose, the exemption created by the Webb-Pomerene Act was carefully hedged in to avoid substantial injury to domestic interests. Organization

under the Webb-Pomerene Act does not give an export association the right to agree with foreign competitors to fix prices . . . or establish exclusive markets . . ." 54 Am. Jur. 2d *Monopolies and Restraints of Trade* § 262, at 298 (1996).

website-user agreement. See **POINT-AND-CLICK AGREEMENT**.

web-wrap agreement. See **POINT-AND-CLICK AGREEMENT**.

wedding. See **MARRIAGE CEREMONY**.

wedge principle. (1951) The argument that relaxation of a constitutionally imposed restraint under specific circumstances may justify further relaxation in broader circumstances. • This principle is most often raised in the context of legalized human euthanasia. But it has frequently been invoked in other contexts, such as the right to protection from unreasonable search and seizure. — Also termed **slippery-sloped principle**; **parade-of-horrors objection**.

"[T]here is the familiar argument from the 'wedge principle,' which is used to deny the possibility of looking at particular circumstances in applying moral rules." Glanville Williams, *The Sanctity of Life and the Criminal Law* 315 (1957).

wedlock. The state of being married; matrimony.

week. 1. A period of seven consecutive days beginning on either Sunday or Monday. 2. Any consecutive seven-day period. [Cases: Time ◊6.]

weekend sentence. See **intermittent sentence** under **SENTENCE**.

week-work. *Hist.* In feudal times, the obligation of a tenant to work two to four days in every week for his lord during the greater part of the year, and four or five during the summer months. See **VILLEIN SERVICE**.

webading. See **TRIAL BY COMBAT**.

weighage (way-ij). A duty or other payment required in return for weighing merchandise.

weight. A measure of heaviness; a measure of the quantity of matter. [Cases: Weights and Measures ◊3.]

gross weight. The total weight of a thing, including its contents and any packaging.

net weight. The total weight of a thing, after deducting its container, its wrapping, and any other extraneous matter. — Also termed **neat weight**.

weighted vote. See **VOTE** (1).

weight of the evidence. (17c) The persuasiveness of some evidence in comparison with other evidence <because the verdict is against the great weight of the evidence, a new trial should be granted>. See **BURDEN OF PERSUASION**. Cf. **MANIFEST WEIGHT OF THE EVIDENCE**; **PREPONDERANCE OF THE EVIDENCE**. [Cases: Criminal Law ◊549; Evidence ◊584.]

Weingarten right. *Labor law.* A union member's right to have a union representative present during an employment meeting that the member reasonably believes will result in disciplinary action. *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251, 95 S.Ct. 959 (1975). •

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week, n.

Pronunciation: Brit. /wi:k/ , U.S. /wik/

Forms:

α. eOE **wiecan** (inflected form), eOE **wiic-** (in compounds), eOE **wiice**, OE **uica** (*Northumbrian*, dative), OE–eME **wic-** (inflected form and in compounds), OE **wycena** (genitive plural), ME **wijkes** (plural), ME **wike**, ME **wike** (plural), ME **wyckes** (*north.*, plural), ME **wyk**, ME **wyke** (plural), ME **wyckes** (plural), ME (18– *Eng. regional*) **wik**, ME–15 (19– representing *U.S. regional* speech (*Virginia*)) **wyke**, 15 **wyck**, 15 **wycke**, 15 **wyeke**, 15–16 **wicke**, 15–16 **wieke**, 15–16 (18– *Eng. regional*) **wick**, 18 **wic** (*Eng. regional*); *Sc.* pre-17 **quhilk**, pre-17 **uick**, pre-17 **uicke**, pre-17 **uik**, pre-17 **wicke**, pre-17 **wiek**, pre-17 **wik**, pre-17 **wike**, pre-17 **wylk**, pre-17 19– **wick**; *Irish English* (*Wexford*) 18 **wick**, 18 **wik**.

β. OE **wucu**, OE–eME **wuc-** (in compounds), OE (*rare*)–eME (in copy of OE charter) **wuca**, OE–eME **wuce**, eME **wukce** (genitive), ME **wocke**, ME **woke** (plural), ME **wokke**, ME **wolkes** (plural), ME **wook**, ME **wougys** (plural), ME **wouk**, ME **wouke**, ME **wouke** (plural), ME **wowke**, ME **wuke**, ME **wuke** (plural), ME **wukkes** (plural), ME–15 **wok**, ME–15 **woke**, ME–15 **wooke**, 15 **wock**; *Sc.* pre-17 **voik**, pre-17 **vok**, pre-17 **volk**, pre-17 **vouk**, pre-17 **vulk**, pre-17 **woik**, pre-17 **woilk**, pre-17 **wok**, pre-17 **woke**, pre-17 **wolk**, pre-17 **wolke**, pre-17 **wooke**, pre-17 **wouk**, pre-17 **wouke**, pre-17 **woulk**, pre-17 **wouyk**, pre-17 **wowk**, pre-17 **wowke**, pre-17 **wox** (plural), pre-17 **wulk**, 17 **wook**.

γ. OE **ucan** (inflected form), OE **ucu-** (in compounds), ME **oke** (prob. transmission error); *Sc.* pre-17 **houk**, pre-17 **houlk**, pre-17 **howlk**, pre-17 **oikkis** (plural), pre-17 **ok**, pre-17 **okkis** (plural), pre-17 **ouck**, pre-17 **ouik**, pre-17 **ouke**, pre-17 **oulke**, pre-17 **ovik**, pre-17 **owik**, pre-17 **owyk**, pre-17 **vlk**, pre-17 **wk**, pre-17 **wke**, pre-17 17 **olk**, pre-17 17 **oulk**, pre-17 17 **owlk**, pre-17 17 **ulk**, pre-17 17–18 **owk**, pre-17 17–18 **owke**, pre-17 17 – **ouk**, pre-17 18 **oik**, 18 **oock**, 18 **uke**, 18– **ook**.

δ. ME **veke**, ME **wakys** (plural), ME **weik** (*north.*), ME **wek**, ME **weke** (plural), ME **wekkes** (plural), ME **weyk** (*north-east midl.*), ME **weyke**, ME–16 **weke**, ME–17 **weeke**, ME– **week**, 15 **weicke**, 15–16 **weake**, 16 **ueke**, 16 **weike**, 18 **weeak** (*Eng. regional* (*Lincs.*)); *Sc.* pre-17 **veek**, pre-17 **veick**, pre-17 **veik**, pre-17 **vek**, pre-17 **veke**, pre-17 **veuk**, pre-17 **weeik**, pre-17 **weeke**, pre-17 **weick**, pre-17 **weik**, pre-17 **weike**, pre-17 **wek**, pre-17 **weke**, pre-17 **welke**, pre-17 **wewckis** (plural), pre-17 17– **week**.

Etymology: Cognate with Old Frisian *wike* (West Frisian *wike* , North Frisian *week* , *wik*), Old Saxon *-wika* (in *krūciwika* Holy Week, lit. ‘cross-week’; Middle Low German *weke* , *wekene*), Middle Dutch *weke* , *weike* , *weuke* , *wouke* (Dutch *week*), Old High German *wehha* , *wohha* (Middle High German *woche* , *wuche* , German *Woche*), Old Icelandic *vika* , Norwegian (Nynorsk) *veke* , *vike* , (Bokmål) *uke* , Old Swedish *vika* , (rare) *uka* (Swedish *vecka*), Old Danish *ukæ* (Danish *uge*), perhaps < the same Germanic base as Old English *wīcan* to give way, Old Icelandic *víkja* to turn (see **WIK** *n.*), and perhaps further related to classical Latin *vicis* (genitive singular) change, turn (see **VICE** *n.*⁶).

Compare (< a Germanic language) Finnish *viikko*, Sami *vakko*, and related forms, in sense ‘week’.

For the cultural origins of the seven-day week see the discussion at sense 1a. It has been argued that the Germanic base underlying the attested words had an earlier sense referring to changes of duty, which was then applied to the sequence of deities governing

the weekly cycle, and finally transferred to the week itself. Such an earlier sense may be reflected by Old Icelandic *vika* unit of distance travelled at sea (perhaps with reference to the periodical change of rowing teams, although this cannot be independently substantiated), Gothic *wiko* order in which something happens (in an isolated example in Luke 1:8 with reference to the allocation of religious duties, translating ancient Greek *τάξις* order, arrangement: see **TAXIS n.**), and also Old English *wice* office, duty, function (see **WIKE n.**). (The usual word for 'week' in the Gothic bible is *sabbato* (< ancient Greek *σάββατον* the sabbath, period between two sabbaths: see **SABBATH n.**)).

The Germanic base may show semantic influence from (perhaps ultimately cognate) classical Latin *vicis* (genitive) turn, change; it has also been suggested that it was borrowed directly < this Latin word.

With use with reference to other calendrical systems based on different numbers of days (sense 1b) compare e.g. French *decade* ten-day unit of the French Republican calendar (1793: see **DECADE n.**), classical Latin *nundinum* Roman eight-day cycle between two market days (counted inclusively; < *nundinae*: see **NUNDINE n.**), and (with quot. 1935) Old Norwegian *fimt* summons with five days' notice (< the base of *fimm* **FIVE adj.** + a dental suffix), sometimes interpreted as reflecting an earlier five-day week.

Form history.

In Old English usually a weak feminine (inflected *wican*, *wucan*, etc.; compare the early nominative singular *wice*); in West Saxon the originally strong feminine form *wucu* (see **β. forms**) is normally used for the nominative singular.

In West Saxon the stem vowel *i* frequently undergoes back mutation to *u* as a result of the influence of the initial *w* and the *u* of the inflectional ending. In Middle English comparable forms, apparently due to the influence of initial *w*, also appear in other regional varieties (see **β. forms**).

Loss of initial *w* before following *u* is occasionally attested in late West Saxon (see **γ. forms**); quot. c1460 at sense 1ay., if it is not simply a scribal error, may perhaps show an isolated reflex of such forms. Comparable forms are independently attested in Older Scots. Influence from Scandinavian languages has been suggested for the latter.

In Middle English the word shows open syllable lengthening of *i* to long close *ē*, apparently originally in disyllabic forms in northern dialects; such forms subsequently also appear in other varieties (see **δ. forms**; an apparent earlier south-western example shown by the variant reading in quot. c1275 at sense 2 is probably a scribal error). Some examples of *wick* (with short *ī*, see **α. forms**) may show a subsequent shortening of long close *ē*.

Older Scots spellings in *-l-* (e.g. *wolk*, *oulk*, *ulk*, etc.) are reverse spellings reflecting earlier vocalization of *l*.

1.

a. A unit of time consisting of a cycle of seven named or numbered days, one day being fixed as the first in the cycle; a single period of this cycle, being a space of seven successive days beginning with the day traditionally fixed as the first day of the week (generally Sunday or Monday).

Although the seven-day week existed in earlier Mesopotamian societies, it is generally associated with the Jewish calendar. From there, the seven-day week was adopted into the calendars of Christian, Muslim, and various other peoples, and is now the international standard. The Jewish week began with the day after the Sabbath, and this beginning was adopted by the Christian church, where it later became the Christian day of rest. The days of the Jewish week, except the seventh (the Sabbath), were not named, but were distinguished only by

number; in early Christian use the name Sabbath was retained for the seventh day, and the first day was called the Lord's Day (Hellenistic Greek *ἡ κυριακὴ ἡμέρα*, post-classical Latin *dies Dominicus*: see LORD'S DAY *n.*), the other days being numbered only.

The English names for the days of the week derive from the planetary week, an astrological week independent of the Judaeo-Christian conception, arising from the practice (first followed in Egypt) of assigning each of the hours of the day to the 'control' of one of the seven planets (PLANET *n.* 1a), in a fixed sequence from Saturn to the Moon, according to their supposed distance from the earth in the Ptolemaic system. Each whole day (of 24 hours) then took its name from the planet controlling its first hour. The planetary names, classical Latin *diēs sōlis*, *diēs lunae*, *diēs martis*, etc., came into common use in the Roman Empire, and were adopted in translated form by the Germanic peoples, including the Angles and Saxons (before they came to Britain); the names Mars, Mercurius, etc., being understood as names of Roman gods, were translated using the names of the Germanic gods supposed to correspond to these; for further details see the entries TUESDAY *n.*, WEDNESDAY *n.*, etc. See also D. H. Green *Lang. & Hist. Early Germanic World* (1998) 236–53.

α.

eOE *Anglo-Saxon Chron.* (Parker) anno 878 Ða on þære seofodan wiecan ofer Eastron he gerad to Ecgbryhtes stane.

eOE tr. Bede *Eccl. Hist.* (Tanner) v. ii. 388 Mid ðy hit ða an wiice ðæs fæstnes gefylled wæs.

OE *On Four Ember-Fasts* (Laud) in H. Henel *Stud. zum Altenglischen Computus* (1934) 61 On kalendis Iunii, on þære æfteran wican.

a1225 (þ?OE) *MS Lamb.* in R. Morris *Old Eng. Homilies* (1868) 1st Ser. 139 Þis halie dei..is sunnen dei icleoþed...Alle oðer dages of þe wike beoð to þreldome to þis dei.

c1275 (þ?a1200) *LA3AMON Brut* (Calig.) (1963) l. 6950 Þene feorðe dæi i þere wike heo ȝifuen him [sc. Woden] to wurð-scipe.

c1300 *St. Michael* (Laud) 438 in C. Horstmann *Early S.-Eng. Legendary* (1887) 312 Þe seoue Dawes in þe wyke þære-aftur I-nemde beoth.

a1413 (þc1385) CHAUCER *Troilus & Criseyde* (Pierpont Morgan) (1881) II. l. 430, I shal nomore com here þis wyke.

1455 J. FASTOLF in *Paston Lett. & Papers* (2004) II. 140 My lord of Norwich shal the next wyke visite the hous of Hykelyng.

1530 *Myroure Oure Ladye* (Fawkes) (1873) I. 4 The seconde parte ys of your seuen storyes, accordynge to the seuen dayes of the wyeke.

1590 in P. H. Hore *Hist. Wexford* (1900) I. 271 James..went to St. James' faire to Bristowe the last wick.

1656 C. LONGLAND *Let.* 14 Apr. in *Coll. State Papers J. Thurloe* (1742) IV. 674 My letters from Rom this wieke tel me great newes from England.

1999 N. L. TAWES *Bunky's Cab* 87 Oi hope He dassint git here 'til next wyke.

β.

OE BYRHTEFERÐ *Enchiridion* (Ashm.) (1995) II. iii. 112 Seo wucu on Grecisc hatte *ebdomada* and on Lyden *septimana*. Seofon daga ryne ys seo wucu, and feower wucan wyrcað anne monð.

IOE *Anglo-Saxon Chron.* (Laud) anno 1118 On þison geare on þære wucon Theophanie wæs anes æfenes swyðe mycel lihtinge.

IOE tr. Honorius Augustodunensis *Elucidarium* in R. D.-N. Warner *Early Eng. Homilies* (1917) 144 Hwý aras ure Drihten of deaðe þæs formeste dæges þære wuca?

- ?c1200 *Ormulum* (Burchfield transcript) l. 4173 Itt iss a33 heh messe da33. Att here wukess ende.
 a1225 (►?a1200) *MS Trin. Cambr.* in R. Morris *Old Eng. Homilies* (1873) 2nd Ser. 3 Hit [sc. Advent] lasted þre wuke fulle and sum del more.
 c1325 (►c1300) *Chron. Robert of Gloucester* (Calig.) 2431 Of þe wouke þen verþe day In oure tonge ycluped in hononour [read honour] of him is wodnes day.
 a1425 *Rule St. Benet* (Lansd.) (1902) 29 Al þe wukis in þe summir, sal ye faste ilke wuke tua dais.
 c1485 (►1456) G. HAY *Bk. Law of Armys* (2005) 284 The peple desyris..the mare to se him, na he rade euery day, or euery wolk or moneth.
 1552 ABP. J. HAMILTON *Catech.* i. viii. f. 22^v, Als well on the Satterday as ony other day of the wouke.

Y.

- OE tr. Theodulf of Orleans *Capitula* (Bodl.) xxxvi. 377 On þære ærestan ucan [L. *ebdomada*] ær Lenctenes anginne andetnissa mæssepreostum syndon to syllanne.
 c1460 (►c1385) CHAUCER *Knight's Tale* (Harl. 1239) (1940) l. 1539 Oke [c1405 *Hengwrt* Selde is the friday al the wike ylike].
 1508 *Golagrus & Gawain* 1343 With reualing and reuay all the oulk hale.
 1565 in J. H. Burton *Reg. Privy Council Scotl.* (1877) 1st Ser. I. 332 That na sellaris be oppynnit bot thryis in the oulk for selling of thair geir.
 1566 in D. H. Fleming *Mary Q. of Scots* (1897) 495 Nocht onlie the twa Sondays bot also the hole rest of the olk.
 1608 *Rec. Innerwick* in A. I. Ritchie *Ch. St. Baldred* (1880) 114 The examination to begin ye nixt olk..for that purpose.
 1614 in H. M. Paton *Accts. Masters of Wks.* (1957) I. 343 The uther oulk at the founding of the dykis to the maissounes.
 1728 A. RAMSAY *Robert Richy & Sandy* 31 Last ouk I dream'd my tup..brak his leg.
 1796 A. STEEL *Twa Cuckolds* 6 Ye ken, ye heard me say, I this owk in his loof wad lay.
 1807 R. TANNAHILL *Soldier's Return* II. iii, Wife—fetch my bonnet that I caft last owk.
 1868 G. MACDONALD *Robert Falconer* I. xi. 137 I'll think aboot it whan ance I'm throu wi' this job. That'll be neist ook or thereabouts, or aiblins two days efter.
 1909 *Brit. Med. Jrnal*, 25 Sept. 892/1 The minister has been catecheezin' in yere barn last ook.
 1993 J. J. GRAHAM *Shetland Dict.* (rev. ed.) 61/1 *Ook*, week.

ð.

- a1393 GOWER *Confessio Amantis* (Fairf.) VII. l. 957 He..Of sevene daies made a weke.
 a1425 WYCLIF *Sel. Eng. Wks.* (1871) II. 1 Þe Wednesdai in þe firste weke of Advent.
 ?a1425 *Mandeville's Trav.* (Egerton) (1889) 61 On þe Seterday it rynnez fast, and all þe weke elles it standes still.
 1529 T. MORE *Let.* 3 Sept. in *Wks.* (1557) 1419/2, I shal (I think)..get leaue this next weke to come home and se you.
 1560 J. DAUS tr. J. Sleidane *Commentaries* f. ccxxxj, That thre daies in the weke they tame theyr body with fastynge.
 a1633 G. HERBERT *Outlandish Prov.* (1640) sig. C5^v, Thursday come, and the week's gone.

- 1665 R. BOYLE *Occas. Refl.* v. v. sig. Kk7^v, A Colour'd suit, that, but last Week, would have been thought a fine one.
- 1740 C'TESS OF POMFRET in C'tess of Hartford & C'tess of Pomfret *Corr.* (1805) l. 208 As this is a week of great devotion and retirement with all good catholics, so it is a week of great idleness and equal retirement with us protestants.
- 1752 JOHNSON *Rambler* No. 199. ¶3, I have sat whole weeks without sleep by the side of an athanor, to watch the moment of projection.
- 1837 W. WHEWELL *Hist. Inductive Sci.* l. 140 We may probably consider the week, with Laplace as 'the most ancient monument of astronomical knowledge'.
- 1837 DICKENS *Pickwick Papers* xliii. 473 You couldn't make it convenient to lend me half a crown till the latter end of next week, could you?
- 1849 C. BRONTË *Shirley* l. i. 5 The present week is yet but at Thursday, and on Monday [etc.].
- 1867 E. A. FREEMAN in W. R. W. Stephens *Life & Lett. E. A. Freeman* (1895) l. 391 Last week I have been working at the early life of Lanfranc.
- 1902 J. M. ROBERTSON *Hist. Christianity* 71 Mithra..being the first of the seven planetary spirits on whose names the week was based.
- 1965 *Lincoln (Nebraska) Star* 6 Oct. 18/4 It's Wednesday and the week is half over.
- 2004 *.net* Christmas 102/4 The study also found that site audiences vary according to the time of the day and day of the week.

b. Any of various units of time analogous to the week (sense 1a), but consisting of cycles of more or fewer than seven days; *spec.* (a) the cycle of eight days used by the Romans prior to the adoption of the seven-day week (cf. NUNDINE *n.*); (b) the cycle of ten days instigated in France during the French Revolution (= DECADE *n.* 2b).

- 1604 E. GRIMESTON tr. J. de Acosta *Nat. & Morall Hist. Indies* VI. ii. 435 They [sc. the Aztecs] accompted their weekes [Sp. *semanas*] by thirteene dayes, marking the dayes with a Zero or cipher.
- 1814 H. M. WILLIAMS tr. A. von Humboldt *Res. Anc. Inhabitants Amer.* II. 123 The Muysca week [Fr. *semaine*] was distinguished from all known in the history of chronology; it had only three days.
- 1852 E. GRESWELL *Fasti Temporis Catholici* I. II. vi. 182 The Romans had *their* week, as much as the Jews and Christians of antiquity; only the Roman week was one of eight days.
- 1916 *Jrnl. Egyptian Archaeol.* 3 32 The Egyptian week or dekad..consisted of 10 days.
- 1935 L. M. LARSON in tr. *Earliest Norwegian Laws* Gloss. 415 In matters of law and public business the five-day week continued in use.
- 1963 L. W. COWIE *18th-cent. Europe* xvii. 329 [The] new republican calendar, which fixed 22nd September 1792 as its beginning and had months named after the appropriate weather or crops and a ten-day week. This, however, was widely ignored by the French people.
- 2000 M. DIENER in J. S. DeLoache & A. Gottlieb *World of Babies* (2001) iv. 106 You will want to consult the *pelelintangan* chart that cross-references the five- and seven-day weeks of the Pawukon calendar.

2. A space of seven successive days, irrespective of the time from which it is reckoned.

- OE *Acct. Voy. Ohthere & Wulfstan* in tr. Orosius *Hist.* (Tiber.) I. i. 15 On sumum stowum swa brad swa man mæg on twam wucum oferferan.
- OE BYRHTEFERD *Enchiridion* (Ashm.) (1995) I. i. 2 Of þisum dagum beoð gesette twelf monðas, on þam beoð twa and fifti wucena æfter þære sunnan ryne.
- c1275 (þ?a1200) LAȜAMON *Brut* (Calig.) (1978) l. 11443 To feouwer wikene [c1300 *Otho* wekene] uirste þat wrec wes iuorðed.
- c1300 *St. Francis* (Laud) 431 in C. Horstmann *Early S.-Eng. Legendary* (1887) 66 Seint Fraunceis was..in þe ordre twenti ȝer, And two ȝer and al-mest þreo wyke.
- þa1398 J. TREVISA tr. Bartholomaeus Anglicus *De Proprietatibus Rerum* (BL Add. 27944) (1975) I. IX. ix. 529 A moneþ conteyneþ foure wekis, and a woke seuene naturel dayes.
- a1450 *St. Edith* (Faust.) (1883) l. 1662 He regnede not foure ȝere here, By sixe wykeus, as yche vnderstonde, þat he nas martrid.
- c1466 J. RUSSE in *Paston Lett. & Papers* (2004) II. 352, I thynke of euery day a wyke tyl ye be content.
- a1529 J. SKELTON *Magnyfycence* (?1530) sig. Ciiii, I haue not kept her yet thre wokys.
- 1553 in J. D. Marwick *Extracts Rec. Burgh Edinb.* (1871) II. 278 The expensis of the ulk precedand the xxvj day of Marche.
- 1615 R. COCKS *Diary* (1883) I. 9 He hath byn in this place a wick, and never came into the English howse till now.
- a1616 SHAKESPEARE *Henry VI, Pt. 3* (1623) II. v. 36 So many Dayes, my Ewes haue bene with yong: So many weekes, ere the poore Fooles will Eane.
- 1734 POPE *Satires of Horace* II. ii. 93 A Buck was then a week's repast, And 'twas their point, I ween, to make it last.
- 1736 BP. J. BUTLER *Analogy of Relig.* I. i. 21 A Man determines,..that he will walk to such a Place with a Staff a Week hence.
- 1787 J. HOY *Let.* 31 Oct. in *Burns' Wks.* (1809) II. 110, I should give him nought but Stra'bogie castocks to chew for sax ouks.
- 1825 G. CRADDOCK *Let.* 29 Nov. in T. Sokoll *Essex Pauper Lett.* (2001) 458, I have left the Hospital three weeks ago as uncurable.
- 1856 C. M. YONGE *Daisy Chain* I. ix, She was within six weeks of seventeen, and surely she need not be sent down again to the schoolroom.
- 1865 A. D. WHITNEY *Gayworthys* xlii, Then there came a week of rain.
- 1923 P. G. WODEHOUSE *Good Morning, Bill!* I. 19 'What are you doing about two weeks from now?'. 'Nothing in particular. Just beetling around.'
- 1933 *Times* 15 Mar. 15/2 During the past week the Nazi steam-roller has passed over every one of the seventeen Federal States of the Reich.
- 1976 *Nature* 1 Apr. 438/2 Rats immunized in this way develop..a second chronic episode after 4 or more weeks.
- 2002 R. SHEHADEH *Strangers in House* vi. 46 On Thursday began a week that would be one of the most critical in my father's life.

3. With prefixed word. Frequently with capital initial.

a. A week of each year associated with a particular festival, commemoration, etc., esp. as part of the ecclesiastical calendar.

A number of weeks of the ecclesiastical calendar are referred to in this way. Most such examples are treated more fully at the first elements (see *Easter week*, *ember-week*, *Great Week*, *Pentecost week*, *Procession week*, *Rogation Week*, etc.) or as full entries (see *GANG WEEK n.*, *HOLY WEEK n.*, *PASSION WEEK n.*, etc.).

- OE *West Saxon Gospels: Matt.* (Cambr. Univ. Libr.) xx. 17 (*rubric*) Ðys godspel gebyrað on wodnesdæg on þære oðre lenctenwucan.
- OE tr. Felix *St. Guthlac* (Vesp.) (1909) xx. 161 Þa eft þan ylcan dæge on þære eastorwucan he þæt lif of þam lichaman sende.
- ?c1225 (►?a1200) *Ancrone Riwe* (Cleo. C.vi) (1972) 57 Haldeð silence..in þe aduent..& þe swi [3en] wike [a1250 *Nero swiðwike*].
- c1450 (►c1430) *Brut* (Galba) (1908) 437 In Cristemesse wike.
- c1500 in J. Coöper *Cartularium Eccl. St. Nicholai Aberdonensis* (1888) I. 259 One Wedinsday in ye penthicoſt owk nixt eftir ye synod.
- 1597 J. GERARD *Herball* II. 450 Milke woort..doth specially flourish in the Crosse or..Rogation weeke.
- 1662 S. PEPYS *Diary* 24 Mar. (1970) III. 51, I went to see if any play was acted, and I find none upon the post, it being passion week.
- 1710 *Let.* 28 Mar. in I. Newton *Corr.* (1975) V. 17 If you adiourn the Society for that, & the Holyday-Week, the Dr will be back ready to execute the Office of Secretary.
- 1736 J. KELLY *Fall of Bob* I. 6 It was in the Christmas Week, When my Granny she sate by the Fire, She sent me to buy an Ox-Cheek, And I fell with it all in the Mire.
- 1826 T. WRIGHT *Hist. & Antiq. Ludlow* (ed. 2) 193 The Quarter Sessions are held here before the Recorder,..on Thursday after Epiphany week.
- 1912 *Edison Monthly* Apr. 363 This year the Passover week is from the second to the ninth of April.
- 1981 *Ebony Jr!* Dec. 44/2, I even know my Nguzo Saba, the seven beliefs celebrated during Kwanza week.
- 2005 *Church Times* 24 Mar. 11/3 For Holy Week each year, we bring out a marvellous set of Stations of the Cross, painted by an artist in the congregation.

b. A week during which an event or action takes place (for all or part of the week), occurring on one occasion only, or on an annual or otherwise recurrent basis.

For *court week*, *cricket week*, *pay week*, *race week*, *reading week*, etc.: see the first element.

- 1523-4 in H. Littlehales *Medieval Rec. London City Church* (1905) 322 M^r parson gave to them a playng weke to make mery.

- a1631 J. DONNE *Serm.* (1959) V. 178 Doe not thinke to put off all to the washing weeke; all thy sinnes, all thy repentance, to Easter, and the Sacrament then.
 1692 S. PEPYS *Let.* Easter Monday in *Diary & Corr.* (1867) IV. 252 The last being Confession, this in all good conscience should be Restitution Week [*i.e.* when Pepys should return papers borrowed from John Evelyn].
 1761 G. COLMAN *Jealous Wife* II. 21 How unlucky it is, that this damn'd Accident shou'd happen in the New-market Week!
 1797 *Norfolk Chron.* 15 July Swaffham Assembly will be on Wednesday, July 19th, 1797 (being Cricket Match Week).
 1839 R. L. VENABLES *Domest. Scenes in Russia* xviii. 243 Indeed, the carnival-week is, strictly speaking, a commencement of the [Lenten] fast, or a sort of preparation for it.
 1890 W. BOOTH *In Darkest Eng.* II. vi. 231 Self-denial..[which] the Soldiers of the Salvation Army practice every year in Self Denial Week.
 1962 *Times* 21 Apr. 3/3 It was in 1960 that Burnley won the title during Cup Final week in their last game, at Maine Road against Manchester City.
 2011 *New Yorker* 3 Oct. 12/3 By happy accident, the opening of this irresistible two-gallery show..coincided with fashion week.

c. A week during which attention is focused on a particular item or issue, esp. to promote it or to raise awareness.

- 1892 *Daily Citizen* (Iowa City, Iowa) 22 Sept. Sweet Potato Week. At Hinman & Showers'. One bushel for \$1.00.
 1917 *Wells Fargo Messenger* 5 133/2 (caption) Native sons of the Golden West begin 'Prune Week' ceremonies.
 1965 'E. MCBAIN' *He who Hesitates* iii. 34 'How come everybody's so eager to join me this morning?' Roger asked. 'Who knows?.. Maybe it's national brotherhood week.'
 1977 *Lancashire Life* Mar. 99/1 He won a prize for the best money-raising poster during Warships Week.
 1996 *Cycle Touring & Campaigning* Apr. 9/1 National Bike Week 1996..is the most important since the CTC launched National Cycling Week in 1923.
 2000 *Adv. Driving* (Inst. Adv. Motorists) Summer 39/1 Road Safety Week this year saw the Institute re-introduce the discount vouchers for Associates between 17–25.

4. The part of the week that is spent in work, rather than at leisure; *spec.* (before the 20th cent.) the six working days as opposed to Sunday; the period from Monday to Saturday inclusive; (now usually) the five working days as opposed to the weekend; the period from Monday to Friday inclusive. Also: a unit of calculation representing work or service done in such a period, esp. for the payment of wages. Cf. *three-day week* at **THREE** *adj.* and *n.* Compounds 2, **WEEKDAY** *n.* 3.

- OE ÆLFRIC *De Temporibus Anni* (Cambr. Gg.3.28) (2009) iii. 82 Gif se terminus bescyt on sumum dæge þære wucan, ðonne bið se sunnandæg þær æfter easterdæg.
- 1340 *Ayenbite* (1866) 212 Me let of bodiliche workes of þe woke uor betere to onderstonde to bidde god.
- c1390 (►a1376) LANGLAND *Piers Plowman* (Vernon) (1867) A. vii. l. 243 For summe of my seruauns beoþ seke oþer-while, Of alle þe wike [c1400 *Trin Cambr.* wyke, a1425 *Univ. Oxf.* wowke, a1475 *Harl.* 875 weke] heo Worcheþ not so heor wombe akeþ.
- 1414–15 in R. W. Chambers & M. Daunt *Bk. London Eng.* (1931) 121 John hath receiued paiement for lxxvj wokes.
- 1477 in E. Hobhouse *Church-wardens' Accts.* (1890) 110 For mendyng of the organs for v wokes, labor..xs.
- 1603 SHAKESPEARE *Hamlet* I. i. 75 Why such impresse of ship-writes, whose sore taske Does not diuide the sunday from the weeke.
- 1649 *Mercurius Pragmaticus (for King Charls II)* No. 8. 69 All the week we are Slaves to the Independent, and on Sunday to the Presbyter.
- 1711 J. ADDISON *Spectator* No. 112. ¶1 Sunday clears away the Rust of the whole Week.
- 1797 tr. Chateaubriand in *Monthly Rev.* 22 App. 545 The temples are shut all the week, and a few short prayers compose the whole Sunday observance.
- 1882 W. BESANT *All Sorts of Men* II. xxix. 240 On this Sunday morning, when the old man looked as if the cares of the week were off his mind.
- 1922 L. MUMFORD in H. E. Stearns *Civilization in U.S.* 8 The factory whistle closes the week.
- 1978 E. ANDERSON *Place on Corner* (1981) iv. 115 Friday is payday for many of the regulars, and they usually pour into Jelly's to celebrate the end of the week.
- 2010 *Grocer* Feb. 32/1 The fish is now being eaten less frequently during the week and more at the weekend, suggesting it is perceived as more of a special purchase than an everyday food.

5.

a. In expressions of frequency: a period of seven days. Chiefly in adverbial phrases, the overall senses of which correspond to uses of WEEKLY *adv.*

- OE tr. Chrodegang of Metz *Regula Canonicorum* (Corpus Cambr. 191) xxx. 231 Munecas sceolon ælcere wucan, and preostas ymbe þreo wucan don heora andytnysse heora bisceope.
- ?c1225 (►?a1200) *Ancrene Riwe* (Cleo. C.vi) (1972) 254 Of alle þulliche þing schriue hire euche wike eanes edþe leste.
- a1325 *Statutes of Realm* in *MS Rawl. B.520* f. 32 (MED), Te baillifs..eche woke oþer eche fortenigt ate leste sullen maken enquestes of men herburgers.
- a1387 J. TREVISA tr. R. Higden *Polychron.* (St. John's Cambr.) (1874) V. 415 He usede twyes a wooke [?a1475 anon. tr. twyes in a weke] to sitte al day to fore þe chirche dore.
- 1389 in R. W. Chambers & M. Daunt *Bk. London Eng.* (1931) 54 3if any brother falle in non power by auenture of godes sonde, & he haue paid to þe almes box his afferaunt, he schal haue eueri wyke of þe box to his sustinance xiiij d.

- a1425 (†?c1350) *Ywain & Gawain* (1964) l. 3058 (MED), Ilkone of us withouten lesyng Might win ilk wike fourty shilling.
- 1463 in *Manners & Househ. Expenses Eng.* (1841) 225 My masters gonner..schalle have every weke xij.d., and mete, and drynke, and beddynge.
- 1533 T. MORE *Debellacyon Salem & Bizance* Pref. f. iii^v, And of this trayuayle., I herd myche speech made, almoste euery weke.
- c1600 (†?c1395) *Pierce Ploughman's Crede* (Trin. Cambr. R.3.15) l. 13 Þe Lengþe of a Lenten flech moot y leue..And Wedenes-day iche wyke wiþ-outen flech-mete.
- a1632 T. MIDDLETON & J. WEBSTER *Any Thing for Quiet Life* (1662) v. sig. G2^v, The day after washing day, once a week, I see't at home.
- 1748 B. ROBINS & R. WALTER *Voy. round World by Anson* II. viii. 222 At Cheripe,..there is a constant store of provisions prepared for the vessels who go thither every week from Panama.
- 1786 *Gentleman's Mag.* Mar. 262/1 Each professor is to read two hours in each week.
- 1826 R. MILLS *Statistics S. Carolina* 428 The South Carolina Society..originated with a few French refugees, who met once or twice every week.
- 1902 *Daily Chron.* 17 May 6/4 There are many families who make it a habit to have a table collection each week for some religious or philanthropic work.
- 1984 *New Yorker* 14 May 42/2 How many times per week do you have sexual relations? On the average—just a ballpark figure.
- 2010 *N.Y. Times* (National ed.) 12 Sept. (Week in Review section) 1/1 There were the 'mad minute' math quizzes twice each week, with the results elaborately graphed.

b. A week, or a working week, considered with reference to periodical payments of wages, rent, or the like (freq. in adverbial phrases); this unit of time considered as a unit of calculation representing work or service done or due in such a period.

- 1389 in J. T. Smith & L. T. Smith *Eng. Gilds* (1870) 18 (MED), Euery brother and sister shal payen, in ye woke, to ye kepers of yis fraternite, a ferthyng.
- 1426–7 in H. Littlehales *Medieval Rec. London City Church* (1905) 66 (MED), Payd to Thomas Seviere and his felawe to set vnder þe clerkis chamber dore þe..mason a hole woke, iiij s. iij d.
- 1492 in T. Dickson *Accts. Treasurer Scotl.* (1877) I. 205 And for alimos, gevin woukly, of xxiiij wokkis, xlvij li.
- 1527 in *State Papers Henry VIII* (1836) IV. 473 After the rate of 18^d by the wooke.
- 1552–3 in J. D. Marwick *Extracts Rec. Burgh Edinb.* (1871) II. 342 Item to Andro Mansioun for half ane ulk's wage.
- 1557–8 in H. Littlehales *Medieval Rec. London City Church* (1905) 409 Payde to wyllyam Elssame for j quarter and vj wykes the soms of xix s. vj d.
- 1580 *Fermor Acc.* in *Archæol. Jnrl.* (1851) 8 181 P^d for xii weickes bord for Mr. Richard Farmor and his man, at vii^s the weicke iiij^u iiij^s.
- a1687 W. PETTY *Polit. Arithm.* (1690) 101 The Wages of a..Labourer..is 4s. per week without Victuals.

- 1775 JOHNSON *Let.* 13 June (1992) II. 224 The Ladies..pay each twopence a week to the box.
- 1784 *Morning Chron.* 26 May 4/1 (*adv.*) The above premises may be taken by the week, and entered upon immediately.
- 1842 DICKENS *Amer. Notes* I. iii. 141 The House is full of boarders,..many of whom..contract by the week for their board and lodging.
- 1882 W. BESANT *All Sorts of Men* II. xxii. 113 And in two days more the week's rent would be due.
- 1886 C. E. PASCOE *London of To-day* (ed. 3) ii. 39 A week's notice is the general rule before vacating rooms.
- 1914 'I. HAY' *Knight on Wheels* xviii, I have two thousand a year... I don't know how much that is a week, but I'll work it out some day in shillings and see.
- 1979 *N.Y. Mag.* 25 June 64/2 The tenants paid for six weeks of air conditioning and the landlord did not furnish six weeks of air conditioning.
- 2005 J. CONNOR *Pointless* (2006) xi. 200 He had been fined two weeks' wages for missing training.

6. In vague or indefinite use.

a. An indefinite period of time approximating to a week.

a week or two: a moderate space of time, usually lasting between seven and fourteen days. *a*

week or so: a moderate space of time, typically of seven days or slightly more.

- eOE tr. Bede *Eccl. Hist.* (Tanner) IV. xxviii. 364 Of ðæm mynstre uteode oft onwalge wucan [L. *ebdomade integra*], hwilum twa oððe ðreo; swylce eac oft ealle monðe þæt he ham ne hwearf.
- a1398 J. TREVISA tr. Bartholomaeus Anglicus *De Proprietatibus Rerum* (BL Add. 27944) (1975) I. VII. lviii. 414 Wiþ sixe wookes [L. *septimanas*] þat conteyneþ fourty dayes þe euel [sc. gout] is ful icured.
- c1405 (►c1395) CHAUCER *Franklin's Tale* (Hengwrt) (2003) l. 587 But thurgh his magyk for a wyke or tweye It semed that alle the Rokkes were awaye.
- c1422 T. HOCCLEVE *Tale of Jerelaus* (Durh.) in *Minor Poems* (1892) I. 174 My freend, aftir, I trowe, a wike or two That this tale endid was, hoom to me cam, And seide [etc.].
- 1550 R. CROWLEY *Way to Wealth* sig. Avi, How often hast thou gone whole dayes together, whole weakes, yea whole yeres, and neuer thought once to loue hym aryght?
- 1568 D. LINDSAY *Satyre* (Bannatyne) l. 1048 in *Wks.* (1931) II. 196 Than scho deit to, within ane olk or two.
- 1592 'C. CONY-CATCHER' *Def. Conny-catching* sig. B4, Hir husband to make a voyage from home, & to stay a weeke or two.
- 1623 H. MANDEVILLE *Let.* 28 July in S. M. Kingsbury *Recs. Virginia Company* (1935) IV. 254, I..wilbe..in my country cottage fr a week or two.
- 1680 *Don Tomazo* 39 Coming to a Town call'd Dunfreize, upon the Borders of England, they concluded there to rest for a Week or so.
- 1718 J. QUINCY *Pharmacopœia Officinalis* 362/1 Put all these together into Cong. iii. of Proof Sugar-Spirit, and let them stand a week or two, stirring the ingredients from time to time.
- 1786 J. HOWARD *Let.* 14 Mar. in R. Price *Corr.* (1994) III. 8 Your Phisicians who know nothing of the Climate send many Patients here, who die a few weeks after their arrival.

- 1884 *Manch. Examiner* 12 May 4/4 Payment is usually made a week or so after the goods have been delivered.
- 1974 *Times* 6 Sept. 1/4 Polling day was only a matter of weeks away.
- 1998 C. WORRALL *Grace* xxi. 212 Alex might be able to put him up for a week or two, just while he gets sorted.

b. In *pl.* An indefinite period of time, lasting for or seeming to last for several weeks; (*hyperbolically*) a very long time, an age. Frequently reduplicated.

- 1597 in *J. Melvill's Autobiography & Diary* (Wodrow Soc.) 424 Alas! the mounths, alas! the wkcs and dayes, That I consum'd in foolishe sports and plays.
- 1652 tr. N. Fonteyn *Womans Doctour* IV. viii. 242 Make an Injection, and wash the ulcerated part very often every day, till the paine cease, and the Ulcer be healed, though she continue the use thereof for weeks, months, and yeares.
- 1753 M. MACKENZIE in *Philos. Trans.* 1751–2 (Royal Soc.) 47 385 To what purpose..keep ships in Sandgate-Creek for weeks, and even months, without landing and serening the goods?
- 1811 J. AUSTEN *Sense & Sensibility* II. vii. 120 He *did* feel the same, Elinor—for weeks and weeks he felt it. I know he did.
- 1891 'J. S. WINTER' *Lumley* vi. 41 'Oh, Vere is not going for weeks—weeks,' declared Mrs. Jock with great decision.
- 1900 'O. AGNUS' *Jan Oxber* (1902) iii. 77 Wiks and wiks I haven't zeen 'ee, my darlen.
- 1918 *Times Lit. Suppl.* 18 Apr. 183/2 The unbounded hospitality of a time when a few letters of introduction gave weeks of princely entertainment.
- 1979 *Texas Monthly* May 130/1 It had been weeks since she'd had her hair done properly.
- 2008 E. CRESSEY & M. FITZGERALD *Maximum Strength* Introd. p. xvii, After weeks and weeks of working out using traditional bodybuilding methods, I might put on half a pound of muscle.

7.

a. A period of seven specified units of time.

Record earliest in *a week of days* at Phrases 1a, *a week of years* at Phrases 1b.

More established phrases of this type are treated at Phrases 1.

- ▶1382 *Bible* (Wycliffite, E.V.) (Bodl. 959) (1959) Gen. xxix. 27 Fullfyll þe wike of days [L. *ebdomadem dierum*] of þis coupyll, & þis [sc. Rachel] forsoþe I schall ȝife to þe.
- ▶1382 *Bible* (Wycliffite, E.V.) (Bodl. 959) (1961) Lev. xxv. 8 Þou shalt noun-bre [read *noumbre*] to þee seuene wokes of ȝeris [1425 *L.V.* woukis of ȝeeris, L. *ebdomades annorum*].
- 1635 J. BAGWELL *Wilson's Christian Dict.* (new ed.) at *Week*, A weeke of weekes of years.
- 1724 T. LEWIS *Origines Hebrææ* II. IV. xviii. 587 At the End of seven Weeks, or a Week of Weeks.
- 1807 J. SPALDING *Divine Theory* I. II. v. 227 The Hebrews observed a week of days, and a week of weeks.

- 1892 F. E. TOWER *Advancing Kingdom* xvii. 339 The 'seventy weeks'..from Artaxerxes' edict of restoration to the Messiah was just seven times the captivity period, or a week of decades of weeks of years.
- 1927 *Catholic Hist. Rev.* **13** 161 A week of centuries equalling the seven deadly sins of thy enemy, shall be numbered unto thee.
- 1960 *Chicago Sunday Tribune* 18 Dec. C4/2 History..is very old and a week of days or a week of centuries passes.
- 2004 M. LOTKER *Christian's Guide to Judaism* vii. 79 The holiday of *Shavuot*..begins fifty days (or a week of weeks plus a day) after Passover.

b. A period of seven years. Now *rare*.

Originally and chiefly in allusion to the prophesies of the angel Gabriel in Daniel 9:24–27.

- ◀c1384 *Bible* (Wycliffite, E.V.) (Douce 369(2)) (1850) Dan. ix. 24 Seuenti weekis [*a*1425 *L.V.* *Royal* Seuenti woukis, ?*a*1425 *L.V. Claud. gloss.* here a wouke is nedis takun for a wouke of 3eeris, and so ech wouk here conteyneth vij. 3eer] ben abreggid on thi peple.
- 1482 CAXTON tr. *Higden's Prolicionycion* III. iii. f. cxvij^v, For Gabryel sayd seuenti short wekes be vpon thy people that be wekes sette not of dayes but of yeres.
- 1577 M. HANMER tr. Bp. Eusebius in *Aunc. Eccl. Hist.* VI. vi. 101 Aboute this time there florished one Iude, who published comentaries vpon the 70 weekes of Daniel.
- 1605 J. DOVE *Confut. Atheisme* 44 But these weekes are *annuae hebdomadae*, euery weeke is seauen yeares.
- 1787 B. FOSTER *Diss. Seventy Weeks Daniel* iii. 10 The Jews had special occasion to measure their time by weeks, or sevens of years.
- 1861 *Evangelical Rev.* Jan. 391 It is obvious that the *terminus a quo* of Daniel's weeks is the year 533 B.C.
- 1916 *Amer. Catholic Q. Rev.* Apr. 327 Daniel's weeks were now accomplished. It was time the Messiah..should appear.
- 2004 S. J. GRENZ in B. D. Forbes & J. H. Kilde *Rapture, Revelation, & End Times* iv. 112 The seventieth prophetic week was delayed, 'God's prophetic clock was stopped,' and the church age began.

PHRASES

P1. Noun phrases with *of* and another measure of time.

a. *a week of days*: a period of seven days, one week; (also occasionally) a full week, an entire week.

[Originally (in quot. *a*1382^v) after post-classical Latin *ebdomas dierum* (Vulgate, Genesis 29:27); the Hebrew original of the translated passage has *šāḇūa* 'week, period of seven days' (see *SHAVUOT* n.) without further qualification.

In later use (in quotes. 1560¹, 1560², and later) after Hebrew *šāḇūa* 'yāmīm, lit. 'week of days' (Daniel 10:2 and 10:3, in *šēlōšāh šāḇu im yāmīm* three entire weeks, lit. 'three weeks of

days'; < *šāḥūā* 'week + *yāmīm*, plural of *yōm* day: see YOM KIPPUR n.). Although Hebrew *šāḥūā* usually means 'period of seven days', it is also attested five times in Daniel 9:24–27 in the extended sense 'period of seven years' (compare *a week of years* at Phrases 1b). Hence, *yāmīm* 'days' was added in Daniel 10:2 and 10:3 for the purposes of disambiguation (compare quotes. 1560' and 2011).]

a1382¹ wike of days [see sense 7a].

1560 *Bible* (Geneva) Dan. x. 2 At the same time, I Daniel was in heauines for three weekes of daies [a1382 days of three wekis].

1560 *Bible* (Geneva) Dan. x. 3 Til thre weekes of daies were fulfilled.

a1591 H. SMITH *Gods Arrowe* (1593) ii. D 1 b, This worde *Hebdomada*..is sometimes taken for a weeke of daies, that is, seauen daies... But at other times it signifieth the space of seauen yeares, and then is it called *Hebdomada Annorum*, A weeke of yeares.

[1611 *Bible* (King James) Dan. x. 3 Three full weekes [*margin*, Heb. weeks of dayes].]

1674 R. FLEMING *Faithfulness of God* iii. 93 They know Daniels Seventy weeks..clearly takes in his [sc. the Messiah's] coming, and though it were taken either for weeks of days, or of years, it must be long since expired.

1725 B. MARSHALL *Chronol. Treat. Seventy Weeks Daniel* Introd. 9 Daniel here speaks of ordinary Weeks or Weeks of Days, and not of..prophetical Weeks, or Weeks of Years.

1819 SCOTT *Bride of Lammermoor* ix, in *Tales of my Landlord* 3rd Ser. I. 260 They dared not keep me a week of days in durance.

1876 tr. *Keil & Delitzsch's Ezek.* II. 336 A feast of heptads of days or weeks of days.

1918 *Bible Rev.* June 60 We pass on to find in the Levitical Law a week of weeks of days leading to a fiftieth day—a Pentecostal Sabbath.

2011 C. BEN AVRAHAM *Bk. Daniel Unsealed* II. ii. 22 Daniel, knowing that confusion would arise in interpreting his fast, states that his fast was for three weeks of days, not three weeks of years!

b. *a week of years*: a period of seven years.

[Originally (in quot. a1382²) after post-classical Latin *ebdomas annorum* (Vulgate, Leviticus 25:8), rendering Hebrew *šabbāt šānīm*, lit. 'sabbath of years' (in *šēḥa* 'šabbēṭōt šānīm', lit. 'seven sabbaths of years', i.e. 'seven times seven years'; < *šabbāt* SABBATH n. + *šānīm*, plural of *šānāh* year: see ROSH HASHANAH n.).

In later use, with reference to the prophecy in Daniel 9, ultimately rendering Hebrew *šāḥūā* (see SHAVUOT n.) in its occasional extended sense 'period of seven years' (five times in Daniel 9:24–27; see *a week of days*); here, the Vulgate uses *ebdomades* 'weeks' without further qualification.]

a1382² wokes of 3eris [see sense 7a].

c1400 J. TREVISA tr. R. Higden *Polychron.* (Tiber.) f. 87, Per buþ wokes yset no3t of dawes bote of 3erer so þt on woke conteyneþ seue 3er.

?a1425 *Bible* (Wycliffite, L.V.) (Claud.) (1850) Dan. ix. 24 Gloss., [a1425_L.V. Seuenti woukis, L. *septuaginta ebdomades*] Here a wouke is nedis takun for a wouke of 3eris, and so ech wouk here conteyneth vij 3eer.

- 1591 H. SMITH *Gods Arrowe* (1593) ii. D 1 b, This worde *Hebdomada*..is sometimes taken for a weeke of daies, that is, seauen daies... But at other times it signifieth the space of seauen yeares, and then is it called *Hebdomada Annorum*, A weeke of yeares.
- 1621 T. W. tr. S. Goulart *Wise Vieillard* 147 Doe wee not obserue how in three weeks of yeares three are dead?
- 1650 W. SCLATER, JR. in W. Sclater *Expos. 4th Chapter Rom.* Ep. Ded. sig. A2, Having now, (by the space of full three weeks of years, and more)..had a strong dispute with my thoughts, whether [etc.].
- 1674 R. FLEMING *Faithfulness of God* iii. 93 They know Daniels Seventy weeks..clearly takes in his [sc. the Messiah's] coming, and though it were taken either for weeks of days, or of years, it must be long since expired, but if they should mean weeks of ages, then for many thousand years his coming could not be yet expected.
- 1725 B. MARSHALL *Chronol. Treat. Seventy Weeks Daniel* II. iv. 242, I see not how Dr. Prideaux can argue from those Sabbaths of Years in Levit. xxv. 8, to the Weeks of Years in this Prophecy.
- 1791 *Conjuror's Mag.* Nov. 110/2 The former part of the week, calculated for Christ and his immediate personal household, was on the scale of a week of years.
- 1865 *Jrnl. Royal Asiatic Soc.* 1 161 The year B.C. 700, however, falls in the midst of a week of years, and was not sabbatical.
- 1903 *Pacific* 27 Aug. 2/1 If there were only ten true believers in the world, and each made one good convert a year, and the twenty did the same and so on, four weeks of years would convert the whole world.
- 2009 H. L. PATTERSON *Thy Kingdom Come* xxxi. 319 The seventy weeks are interpreted as weeks of years, which total four hundred and ninety years.

c. a week of Sundays: (*colloq.*) seven Sundays; seven weeks;
(hence) a long or indefinite period of time. Often in negative contexts,
esp. as **not in a week of Sundays:** never. Cf. *a month of Sundays*
at SUNDAY *n.* and *adv.* Phrases 2b.

- 1822 B. HOFLAND *Tales of Manor* IV. iii. 66 But where ever have you been this week of Sundays?
- 1881 *Blackwood's Edinb. Mag.* Dec. 692/2 But Jack had declared that morning that he could not hit a ball in a week of Sundays.
- 1898 'C. HARE' *Broken Arcs* I. ii. 13 Tes wark..never done, an' nar' a bit o' play for I,..no, not in a week o' Sundays.
- 1901 D. B. W. SLADEN *My Son Richard* iv, He..got to know her more intimately in that five minutes than he might otherwise have done in a week of Sundays.
- 2009 J. GREENE *Bombs & Lambs* 55 Finally, after what seemed like a week of Sundays, Mummy said, 'Yes, they'll have you'.

d. a week of Saturdays: (*colloq.*) seven Saturdays; seven weeks;
(hence) a long or indefinite period of time. Often in negative contexts.

- 1831 *Constellation* 8 Jan. 57/3 No, you couldn't gess in a week of Saturdays and so I'll tell you—cause it is *ungintee*.
- 1921 *Boys' Life* June 13/1 In a week of Saturdays we couldn't hist the motor up the mountain.
- 2001 *Chron.-Telegram* (Elyria, Ohio) 26 Apr. (Special Advertising Section) 8/1 For a week of Saturdays last fall, I climbed a ladder, and..cleaned every last bit of green and black from the porch.

†e. **the week of the four Fridays**: an imaginary date that will never arrive. *Obs. rare.*

- 1766 H. BROOKE *Fool of Quality* I. Ded. p. xxvi, At the time that the hogs shall..feed along with the herrings;..or on the week of the four Fridays, so long looked for by astrologians.

P2. In expressions serving to specify a date or a time period.

a.

(a) Modified by *a* or a numeral, following a specified day, as **this day two weeks, Saturday three weeks, yesterday a week**, etc.: a number of weeks to the day, before or after the day specified.

- c1275 (þ?a1200) LA3AMON *Brut* (Calig.) (1963) l. 4019 Þe king lette blawen..& hehten heom alle..þas dæies æn þreom wiken [c1300 *Otho* þane dai a þreo wike] wenden to Lundene.
- 1454 in J. T. Gilbert *Cal. Anc. Rec. Dublin* (1889) I. 281 That al maner of men of Iryshe blode..avoyde [*i.e.* quit Dublin] by this day iiii. wekys. And gyff eny of this Iryssh blode..may be founde within the said cite or frauncheis after the said iiii. wekys day, they shall..be put in prisone.
- 1531 in I. S. Leadam *Select Cases Star Chamber* (1911) II. 187 The same Court so adiorned to be kepte ther that day thre wekes next ensuyng.
- 1707 R. GARDINER *Instructor Clericalis* (ed. 4) I. 21 Hillary Term beginneth..that day eight Weeks on which Michaelmas Term ended.
- 1781 *Jrnls. House of Lords* 36 332/1 Ordered, That the said Bill be read a Second Time on Tuesday Four Weeks.
- 1817 J. AUSTEN *Let.* 25 Mar. (1995) 337 She *expects* much about this day three weeks, & is generally very exact.
- 1864 G. KNOX *Diary* 20 May in R. C. McMurray *Uncompromising Secessionist* (2007) vii. 204, I have not had a change of clothing since yesterday two weeks.
- 1878 *Evid. Case D, Donnelly* 1877 353, I think last Saturday a week was the first time I was in his cell.
- 1914 *Harper's Weekly* 14 Feb. 25/2 I'll be home tomorrow two weeks. You come to dinner Sunday two weeks.
- 2001 B. CULLEN *It's Long Way from Penny Apples* (2004) xxii. 251 Well, yourself and Paddy Walsh will present yourselves at this address in James's Street on Saturday two weeks.

(b) Following a specified day, as *Monday week, this day week, tomorrow week, yesterday week*, etc.: seven days before or after the day specified. Cf. earlier *this day sennight* at SENNIGHT *n.* b.

- 1680 E. HOOKES *Due Order Law & Justice* 42 Mary Duncon, to have been called into the Court of Sessions this day week.
- 1781 *Scots Mag.* June 303/2 Yesterday week, about four o'clock in the afternoon, Col. Delaney..marched from Morrissania.
- 1810 *Sporting Mag.* 36 160 The whole of the money must be made good that night week.
- 1831 *Lincoln Herald* 23 Sept. 4/4 Early on Monday morning week, an attempt was made [etc.].
- 1857 T. HUGHES *Tom Brown's School Days* II. vi. 339 The crisis came on Saturday, the day week that Thompson had died.
- 1889 'J. S. WINTER' *Mrs. Bob* i, Let us say Thursday week, dear—This is Saturday, so it is quite enough notice to give.
- 1957 F. O'CONNOR *Let.* 19 May (1979) 220 Last Friday week I stood in a receiving line with your brother and sister-in-law for a good hour.
- 1990 *Guardian* 25 Sept. 15/1 Reilly..is due to announce his..squad tomorrow week.
- 2004 D. PEACE *GB* 84 80 However, Monday week, there will also be a Union family rally in the town.

(c) Now chiefly *Brit.* Preceding a specified day and modified by *a* or a number, as *a week yesterday, three weeks tomorrow, a week last Friday*, etc.: a number of weeks to the day, before or after the day specified.

- 1827 M. T. C. GOULD *Trial Twenty-four Journeymen Tailors* 24, I think it took place on the 23d of August. I think four weeks yesterday.
- 1845 *N.Y. Herald* 30 Dec. 7/2 A week last Friday, a two horse wagon..stopped at Powers' tavern.
- 1883 *Missionary Herald* (Boston) 1 Oct. 349 Only a week yesterday we put his earthly remains in the grave.
- 1922 *U.S. Naval Med. Bull.* 17 456 Two weeks yesterday I attended a meeting at Scott's pond.
- 1950 P. H. NEWBY *Young May Moon* vii. 167 It'll be three weeks tomorrow that you came to us.
- 1984 *Times* 6 Nov. 30/1 Ian Rush..rides again into Cardiff a week tomorrow but too late to rescue the Welsh national team.
- 2001 K. MUIR *Run for Freedom* (2006) v. 110 There's a sale of pups three weeks tomorrow.

†b.

(a) Followed by the word *day* (DAY *n.* 18), in expressions with the sense 'a period of a specified number of weeks; a number of weeks to the day'. *Obs.*

- 1398 in C. Innes *Liber Sancte Marie de Melros* (1837) 490 [Gif] defaut be of þir paymentis..ovre
runnene ande ganeby sex wowkis daye eftir þe lymite terme.
- a1450 *Partonope of Blois* (Univ. Coll. Oxf.) (1912) l. 6634 (*MED*), This lyfe they ledde vj wokes day.
- 1523 EARL OF SURREY in *State Papers Henry VIII* (1836) IV. 55 Thies 5 wekes daye, I never slepte
one hole houre withoute wakinge, my myende is soo troubled.
- 1573 W. SMITH *Wydwow Edyth* (new ed.) iii. sig. B.iiij, There she abode, full iocunde and mery. For
the space fully of. vi. weekes day.
- a1679 T. HOBBS *Dialogue Common-laws Eng.* 145 in *Art of Rhetoric* (1681) Which Statute
alloweth to these Provisors six weeks Day to appear.

(b) In the genitive, followed by the word *day*: one week to the day;
one week exactly. *rare*.

- 1582 SIR J. POPHAM in H. Hall *Society in Elizabethan Age* (1886) 262, I mene if God please to be at
Salisburie the wekes-daie at night before Easterdaie.
- 1897 E. W. HAMILTON *Outlaws of Marches* xxix. 328 Why man, I'll warrant ye'll no be laid by for
mair nor a week's day at the maist.

c. *Monday (also Tuesday, yesterday, Christmas, etc.) was a week*:
see BE v. Phrases 2b.

P3. In expressions serving to specify a pattern of recurrence.

a. *from week to week*: on each successive week, every week;
continuously for a number of weeks.

[Compare early modern Dutch *van weke te weke* (c1504; compare Dutch *van week tot week*),
German *von Woche zu Woche* (mid 16th cent.). Compare earlier *from (also fro) day to day* at
DAY n. Phrases 2c and *from year to year* at YEAR n. Phrases 2b].

- ?1570 T. INGELAND *Disobedient Child* sig. D.ii^v, And yet for all this, from weeke to weeke, For his
stypende and wages he neuer cryeth.
- 1669 DRYDEN *Wild Gallant* l. 7 Sir, we'll come by our own as we can; if you put us off from week to
week thus.
- 1748 W. HARDY *Miner's Guide* 19 He shall let one Nick upon the Spindle, and so from Week to Week
he shall do the like.
- 1893 T. FOWLER *Hist. Corpus Christi Coll.* 51 The Steward of the Hall was one of the graduate-
Fellows appointed, from week to week, to assist the Bursars in the commisariat.
- 1923 *National Geographic Mag.* Jan. 5/1 From week to week one cannot detect the slightest cloud
in the blue sky.
- 1959 *Economist* 12 Dec. 1090/1 Here the supplier takes responsibility for the stock and display from
week to week.
- 2001 J. T. HALLINAN *Going up River* xvii. 214 Her days off change from week to week.

b. *week after week*: for weeks in succession; on many successive occasions; repeatedly, across a number of weeks.

- 1606 F. JOHNSON *Inq. T. White his Discov. Brownisme* 57 Divers dayes (week after week) being so employed for the convincing of him in all: the Church did then excommunicate him.
- 1745 J. WESLEY *Farther Appeal* 119 Who, Week after Week, spent the Lord's Day..in idle Diversions, and never troubled themselves about going to Church?
- 1847 THACKERAY *Vanity Fair* (1848) xxxvii. 331 The pertinacity with which the washerwoman..brought..her bills week after week.
- 1968 *Listener* 4 Apr. 445/2 It was not practicable to print anecdotes week after week about Lord Blank's personality and foolish views.
- 2010 C. BROWNFIELD *My Nuclear Family* vi. 79 Week after week, new sets of orders arrived on our captain's desk.

c. *week and week about*: in alternate weeks; (hence *attrib.*) organized by arranging for things to occur in alternate weeks.

- 1796 *Rules & Orders Brotherhood Malsters Newcastle* 11 Each of the Stewards..shall visit him or them so being sick week and week about.
- a1835 D. PRICE *Mem. Field Officer* (1839) x. 200 For some time past four or five of us had continued to keep mess alternately, week and week about.
- 1891 R. KIPLING *Light that Failed* vi. 94 The girls were supposed to market week and week about.
- 1919 C. R. ALLEN *Instructor* (ed. 6) xlii. 338 Classes are usually organized in such a way that a period of shop work alternates with a period of instruction in non-shop work. The two most common arrangements are: (1) the half day period, and (2) the week and week about period.
- 1996 M. HENRY *Young Children, Parents & Professionals* 36 The children alternated, week and week about, their stints in these classes with their voluntary groups.

d. *week in (and) week out*: every week for an indefinite number of successive weeks; continuously.

[Compare Dutch *week in week uit* , (also) *week uit week in* (18th cent. or earlier), German *Woch' ein Woch' aus* , *wochein wocheus* , (also) *Woch' aus Woch' ein* , *wocheus wochein* (mid 19th cent. or earlier, now nonstandard and rare); compare also *day in (and) day out* at DAY *n*. Phrases 3b, *year in (and) year out* at YEAR *n*. Phrases 3a.]

- 1815 *Columbian Mag.* Mar. 213/2 [They] take of their own accord more respite from labour, week in and week out, than the law exacts.
- 1888 *Lend Hand* Jan. 2 Twelve joiners..only received, in fact, 13s. a week, week in and week out.
- 1938 *Dunkirk (N.Y.) Evening Observer* 3 Dec. 17/5 Week in, week out, he's 'steady'.
- 1960 J. GUNN *Humpy in Hills* x. 159 Smith and his friends used to hound Col, week in week out.
- 1995 E. TOMAN *Dancing in Limbo* vii. 168 Week in and week out he claimed his place on the studio sofa, and week in and week out he harangued the dwindling viewers.

2010 *Economist* 21 Aug. 37/1 This is a space that must be filled week in and week out this summer, come what may.

e. week-to-week: (*attrib.*) (originally) arranged by the week; calculated in terms of a week; (now more usually) continuous for successive weeks; continual, without interruption.

Cf. *from week to week* at Phrases 3a.

[Compare earlier DAY-TO-DAY *adj.* and YEAR-TO-YEAR *adj.*]

1879 *Belfast News-let.* 28 July 7/4 It was a week to week tenancy.

1918 *Sundry Civil Bill 1919: Hearings before House Comm. on Appropriations* (65th Congr. 2nd Sess.) 226 Department records of hour-to-hour, day-to-day, and week-to-week output..enable us to easily ascertain the individuals who are falling off in their production.

1928 *Printers' Ink* 18 Aug. 93/1 Nor can space as a commodity be generally sold or purchased economically on a week-to-week basis.

1959 *New Statesman* 24 Jan. 92/2 The lightning flashed above Sinai, and in its glare, the starry-eyed observer, remote from the week-to-week grind of party work, saw a great machine, whirring smoothly to life.

1981 J. SUTHERLAND *Bestsellers* i. 15 The bestseller lists... Their week-to-week attention singles out sensational books of the moment.

2005 B. ROMANOWSKI *Romo* xii. 251 There were guys who could not maintain the level of intensity that I could on a week-to-week, game-to-game basis.

P4. Other phrases.

a.

Feast (also Festival, Solemnity, etc.) of Weeks *n.* *Judaism*
(also with lower-case initials) = SHAVUOT *n.* Cf. PENTECOST *n.* 1.

[Ultimately after Hebrew *ḥag šāḥū ʾōl* (< *ḥag* festival + *šāḥū ʾōl* : see SHAVUOT *n.*; (also) with prefixed definite article in the second element, *ḥag haššāḥū ʾōl*.)]

►a1382 *Bible* (Wycliffite, E.V.) (Bodl. 959) (1959) Exod. xxxiv. 22 Þe solempnyte of wekis [L. *sollemnitatem ebdomadatum*].

►c1384 *Bible* (Wycliffite, E.V.) (Douce 369(2)) (1850) 2 Macc. xii. 31 Thei..camen to Jerusalem, the solempne day of weekis [L. *die sollemni septimanarum*] neizinge.

1535 COVERDALE *Exod.* xxxiv. 22 The feast of wekes. [So in 1611 and later editions.]

1593 T. NASHE *Christs Teares* f. 20, The feast of Tabernacles, the feast of sweet Bread, and the feast of Weekes.

1644 E. ARNOLD tr. D. Pareus *Comm. Revelation* 336 The first of their ripe fruits being then consecrated to God in the feast of weekes.

1683 N. CROUCH *Surprizing Miracles Nature & Art* 14 In the Feast of weeks the Priests heard a man walking in the Temple.

- 1728 *Ceremonies Present Jews* 36 The fiftieth day of the Omer is their Feast of Weeks, so called because it is kept at the end of seven Weeks.
- 1787 D. SHAW *Hist. & Philos. Judaism* I. i. 117 The feast of weeks was another grand and solemn festival among the Jews.
- 1846 W. T. WISHART *Series of Outl.* No. 4. 105 The festival of weeks is specified as one of the stated solemn occasions—2 Chron. VIII. 12, 13.
- 1891 M. FRIEDLÄNDER *Jewish Relig.* 393 The Feast of Weeks, the 6th and 7th of *Sivan*, commemorates..an historical event: the Law-giving on Mount Sinai.
- 1916 *Reform Advocate* 10 June 665/1, I shall attend services at the Reform Temple where I am told confirmation exercises will add new impressiveness to the solemnities of the time-honoured Festival of Weeks.
- 2006 Y. NATAN *Moon-o-theism* I. iv. 467 *Shavuot* is also called Feast of Weeks, or Pentecost, and occurs in the third month called *Sivan*.

†**b. in by the week:** caught, trapped, ensnared; deeply in love. *Obs.*

[Probably with allusion to a prison term.]

- 1534 N. UDALL *Floures for Latine Spekyng gathered oute of Terence* f. 2, *Captus est*. He is taken, Or, he is in the snare, or he is in the lashe. And prouerbially, he is in for a birde, or he is in by the weke.
- 1546 J. HEYWOOD *Dialogue Prouerbes Eng. Tongue* II. vii. sig. K, This prouerbe shewth the in by the weke.
- a1556 N. UDALL *Ralph Roister Doister* (?1566) I. ii. sig. A.iiij^v, He is in by the weke, we shall haue sport anon.
- 1598 SHAKESPEARE *Love's Labour's Lost* V. ii. 61 O that I knew he were but in by th' weeke.
- 1612 J. WEBSTER *White Diuel* E 1, Enter Flamineo and Marcello guarded, and a Lawyer. *Law*. What are you in by the weeke.

†**c. to go to it by the week:** to commit oneself totally to an action.

Obs. rare.

- 1592 A. DAY *2nd Pt. Eng. Secretorie* sig. H2^v, in *Eng. Secretorie* (rev. ed.) Yet now we be in, let vs goe to it by the weeke.

d. Chiefly humorous. too late a week: far too late, esp. in one's life.

Now *rare*.

In later use usually as an echo of Shakespeare.

- a1616 SHAKESPEARE *As you like It* (1623) II. iii. 75 At seauenteene yeeres, many their fortunes seeke But at fourescore, it is too late a weeke.

- 1798 *Oracle & Daily Advertiser* 28 Sept. Most of our antique Beaux..acknowledged with a sigh that, for them, it was 'too late a week'.
- 1826 *SCOTT Jrnl.* 4 Feb. (1939) 89 If she had her youthful activity, and could manage it, it..would amuse her. But I fear it is too late a week.
- 1829 *SCOTT Jrnl.* 18 Jan. (1946) 6 A sensible, powerful mind[ed] person, had a[t] 28 (rather too late a week) taken up the art of sculpture.
- 1903 *McGill Univ. Mag.* Dec. 168 Now, it is decidedly 'too late a week' to change the Quebec Act and its consequences.

e. a week is a long time in —: used to indicate that the specified enterprise is unpredictable and prone to rapid change. Now chiefly in **a week is a long time in politics** and variants, or with allusion to this.

The phrase *a week is a long time in politics* is strongly associated with British Prime Minister Harold Wilson (1964–70, 1974–6), and especially with the 1964 sterling crisis (see N. Rees *Sayings of the Century* (1984)), but there appears to be no written evidence of his use of it at that time.

- [1879 C. M. YONGE *Magnum Bonum* III. xxxv. 764 In the existing state of affairs, a week was a long time, and that very Sunday brought the crisis.]
- 1893 *Romance* July 453 A week is a long time in a newspaper office.
- 1962 G. WOLFSKILL *Revolt of Conservatives* 34 Shouse was reminded once more that in politics a week is a long time.
- 1966 *New Politics* 5 146/2 Harold Wilson has said, in another connection: 'A week is a long time in politics.' But many Labour men believe that if the tide is to be turned it will require the change of policy outlined above.
- 1983 *Lethbridge (Alberta) Herald* 31 Aug. C11/2 A week is a long time in politics, an expression of the idea that unexpected developments can transform political fortunes.
- 1997 *Melody Maker* 6 Dec. 7 A week is a long time in pop music and even longer on the world's most mad-for-it music weekly, where the zeitgeist can prove an elusive beast.
- 2011 *Chron. (Austral.)* (Final ed.) (Nexis) 19 July A36 With a week a long time in politics, think of what could happen between now and the tax taking effect on July 1, 2012.

f. — of the week: designating a featured person or thing (often the most successful or favoured) of a specified kind for a given week; (now also) humorously designating the subject of a current trend. Cf. *flavour of the month (or week)* at FLAVOUR *n.* 3d.

- 1906 *Hamburg (Iowa) Reporter* 16 Nov. 6/4 (heading) The recipe of the week.
- 1937 *Life* 16 Aug. 24 (caption) Strike picture of the week comes from Brooklyn, where a shipyard walkout..has dragged on since mid-June.
- 1960 *Jet* 10 Mar. 26 Salesman of the week... Jack Hall... tried to sell subscriptions to Collier's magazine, which went out of business several years ago.

- 1975 C. HIRSCHHORN *Films James Mason* 12/2 The film received splendid reviews..., scooping M.G.M.'s prestigious *Marie Antoinette* as the film of the week in *The Times* newspaper.
- 1986 *Jewish Advocate* 11 Dec. A9/3 Television has its disease of the week.
- 1995 M. MATALIN & J. CARVILLE *All's Fair* 256 Every Friday we named the Employee of the Week, who would get a gold star and a jar of barbecue sauce.
- 2010 *Daily Tel.* 4 Nov. 26/2 Random fact of the week: Lady Gaga takes up 10 petabytes of bandwidth on Google.

g. *any day of the week*: see DAY *n.* Phrases 9g. *flavour of the week*: see FLAVOUR *n.* 3d. *to knock (a person) into the middle of next week*: see KNOCK *v.* 6f.

COMPOUNDS

† **week-boy** *n.* Obs. a boy employed by the week, as distinguished from an apprentice.

- 1662 *Act 14 Chas. II* c. 5 §17 No Master Weaver..shall..sett on worke above two Apprentices or any weeke-Boy to weave in a Lombe in the said Trade in worsted weaving.
- 1683 J. MOXON *Mech. Exercises* II. Dict. 373 The Press-man sometimes has a Week-Boy to Take Sheets, as they are Printed off the Tympan.

week evening *n.* [compare earlier WEEKNIGHT *n.*] a weekday evening; *spec.* (in early use) an evening of the week other than Sunday evening; (now usually) an evening of the working week; an evening other than Saturday or Sunday evening (sometimes also excluding Friday evening); *freq. attrib.*

- 1792 T. COKE & H. MOORE *Life J. Wesley* I. ii. 54 They read and considered the Greek Testament on the week evenings.
- 1812 *Monthly Repository* Jan. 57/2, I preached here [sc. Warrington] five times; was always well attended; even the week evening congregations were large.
- 1863 *Earthen Vessel* 246/1 246/1 There is also a Bible class conducted on a week-evening in the chapel.
- 1900 E. T. FOWLER *Farringdons* viii. 141 It is our week-evening service.
- 2007 *Enniscorthy* (Ireland) *Guardian* (Nexis) 29 Mar. The timing of this game for 5.30 p.m. on a week evening makes one wonder if the powers-that-be are really serious about promoting hurling.

week-long *adj.* that lasts for a week.

- 1847 LD. LINDSAY *Sketches Hist. Christian Art* I. p. clxviii, I lay at the feet of Jesus,..yoking down my struggling flesh with week-long fastings.
- 1898 *Daily News* 15 Sept. 6/4 The ladies, true to their week-long enthusiasm,..made the University College Theatre look very bright.
- 1983 J. MACY *Despair & Personal Power* i. 17, I chaired a weeklong seminar on planetary survival issues.
- 2007 *Hindustan Times* 28 May 4/4 A week-long exchange of accusations and blame games.

week-old *adj.* (*attrib.*) designating a person, animal, or thing that is one week old; cf. **OLD** *adj.* 4b(a).

- 1826 *Blackwood's Edinb. Mag.* Nov. 658/2 The week-old fawn had left the doe's side but for a momentary race along the edge of the coppice.
- 1892 *Lichfield Mercury* 25 Mar. 8/5 If we obstinately shut our eyes and keep company with the hapless week-old kittens.
- 1903 R. KIPLING *Five Nations* 115 Out of the darkness we reach For a handful of week-old papers And a mouthful of human speech.
- 1935 P. G. WODEHOUSE *Luck of Bodkins* xviii. 216 A certain brand of cigarette—one puff of which..will make a week-old corpse spring from its bier and dance the Carioca.
- 2002 J. MERCURIO *Bodies* (2003) 195 A paediatrician killed a week-old baby because he flushed a tube with phenytoin that someone had left lying around.

DERIVATIVES

† **weekmeal** *adv.* [-MEAL *suffix*] *Obs.* one week at a time; cf. **PIECEMEAL** *adv.* 1.

?c1200 *Ormulum* (Burchfield transcript) l. 554 To serrfenn wukemalumm.

?c1200 *Ormulum* (Burchfield transcript) l. 536 Drihhtin godd. To bewwtenn wuke malumm.

This entry has been updated (OED Third Edition, September 2014).

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city; ūid, ōbey, ōrb, ōdd, ōŏt, cōnnect; ſōōd, ſōōt;
 ized on pages immediately preceding the Vocabulary.

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one night stand. A place where a person who does
not want to get married, can have sex for one night.
One-night-stand. The fourth level of the pyramid was

one off two, one off three, etc. *Half*. One taken from two, three, etc.; used, in the beginning of strokes, as the stroke is to be taken by one side when the opposite side is played two, three, etc., strokes more.

one old rail. See CAT. v. 3 d.

one-one (with snuff, oil, etc.). *Large & Small*. A flange

[illegible][illegible][illegible][illegible]

one-track mind, *adj.* Having but one track — of the specific track, and not of general interest, as, a one-track mind on the subject of the national debt.

one-two, *n.* *Informal.* An attack made for elimination (elimination), and if a victory is achieved, following the attack, the victor is called a one-two winner.

one-two-three, *adj.* Always or admitting of nothing but one and two, as, a one-two-three street.

one where you can hear it, *adv.* In one place or any place else. *Informal.*

[illegible]

R.J.N. 39



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Dictionary

'one

adjective \ˈwən\

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: having the value of 1

—used to refer to a single person or thing

—used before a noun to indicate that someone or something is part of a group of similar people or things

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Full Definition of ONE

- 1 : being a single unit or thing <one day at a time>
- 2 a : being one in particular <early one morning>
b : being preeminently what is indicated <one fine person>
- 3 a : being the same in kind or quality <both of one species>
b (1) : constituting a unified entity of two or more components <the combined elements form one substance> (2) : being in agreement or union <am one with you on this>
- 4 a : SOME 1 <will see you again one day>
b : being a certain individual specified by name <one John Doe made a speech>
- 5 : ONLY 2a <the one person she wanted to marry>

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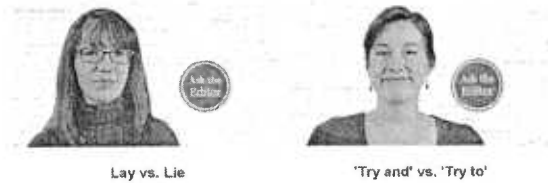
Spell It



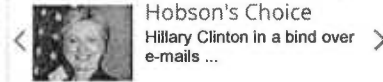
Examples of ONE

There is *one* minute left in the game.
 I have a few *one*-dollar bills in my purse.
 She is *one* year old.

Ask The Editor Videos



Trend Watch



Origin of ONE

Middle English *on*, *an*, from Old English *æn*; akin to Old High German *ein* *one*, Latin *unus* (Old Latin *oinos*), Sanskrit *eka*
 First Known Use: before 12th century

Related to ONE

Synonyms
 alone, lone, only, one-off, singular, sole, solitary, special, sui generis, unique
 [+] [more](#)

Other Number-Related Terms

jubilee, myriad, quarantine, score, twain

Rhymes with ONE

bun, done, dun, fen, fun, gun, hon, Hun, jun, maun, none, nun, pun, run, shun, son, stun, sun, sunn, ton, tonne, tun, won

²one

noun

: the number 1
 : a one-dollar bill
 : one o'clock

Full Definition of ONE

- 1 — see NUMBER TABLE
 - 2 : the number denoting unity
 - 3 **a** : the first in a set or series —often used with an attributive noun <day *one*>
b : an article of clothing of a size designated *one* <wears a *one*>
 - 4 : a single person or thing <has the *one* but needs the other>
 - 5 : a one-dollar bill
- at one
 : at harmony : in a state of agreement

— *for one*
: as one example <I *for one* disagree>

See one defined for English-language learners »

Examples of ONE

one, two, three, four, ...

I don't have any *ones*. Can you break a five?

I'll be there at *one*.

First Known Use of ONE

before 12th century

Related to ONE

Synonyms
bone [*slang*], buck, clam, dollar, smacker [*slang*]

[+] **more**

Other Number-Related Terms

jubilee, myriad, quarantine, score, twain

one

pronoun

: that person or thing
: someone or something that is a part of a particular group
: people in general : any person

Full Definition of ONE

- 1 : a certain indefinitely indicated person or thing <saw *one* of his friends>
- 2 a : an individual of a vaguely indicated group : anyone at all <*one* never knows>
b —used as a third person substitute for a first person pronoun <I'd like to read more but *one* doesn't have the time>
- 3 : a single instance of a specified action <felt like belting him *one* — John Casey>

See one defined for English-language learners »

Usage Discussion of ONE

Sense 2a is usually a sign of a formal style. A formal style excludes the participation of the reader or hearer; thus *one* is used where a less formal style might address the reader directly <for the consequences of such choices, *one* has only oneself to thank — Walker Gibson>. This generic *one* has never been common in informal use in either British or American English, and people who start sentences with *one* often shift to another pronoun more natural to casual discourse <when *one* is learning the river, he is not allowed to do or think about anything else — Mark Twain>. Use of *one* to replace a first-person pronoun—sense 2b—has occasionally been criticized. It is more common in British English than in American <I'm watching this pretty carefully and I hope that the issue will come up in the Lords and *one* may be able to speak about it — Donald Coggan>.

Examples of ONE

"I'll have an iced tea, please." "I'll have *one*, too."

Their dog died, but they plan to get another *one*.

"You should wear the blue *one*." "The *one* with the stripes?" "No, the other *one*."

I'd like to see the ring next to that *one*.

Which *one* did you like better?

He is the *one* who called the police.

That's one possible answer—but not the *only one*.

I would like to read more, but *one* doesn't have the time.

First Known Use of ONE

13th century

ONE Defined for Kids

¹one

adjective \ˈwən\

Definition of ONE for Kids

- 1 : being a single unit or thing <There's *one* catch.>
- 2 : being a certain unit or thing <He arrived early *one* morning.>
- 3 : being the same in kind or quality <All the members of *one* class will sit together.>
- 4 : not specified <We'll meet again *one* day.>

²one

noun

Definition of ONE for Kids

- 1 : the number denoting a single unit : 1
- 2 : the first in a set or series
- 3 : a single person or thing

³one

pronoun

Definition of ONE for Kids

- 1 : a single member or individual <I met *one* of your friends.>
- 2 : any person <*One* never knows what will happen.>

Learn More About ONE

Thesaurus: All synonyms and antonyms for "one"

Spanish Central: Spanish translation of "one"

SCRABBLE®: Playable words you can make from "one"

Nglish: Translation of "one" for Spanish speakers

Britannica English: Translation of "one" for Arabic speakers

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one
-one

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Seen & Heard

What made you want to look up *one*? Please tell us where you read or heard it (including the quote, if possible).

13 Comments

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**Armand Miralles** · Salesman at Zest-o corporation

In Hebrew language, the word "one" means elohenu before it was translated to the English language. And elohenu means unity or united. It supports the doctrine of the Trinity or triune God. I'm just wondering why was it translated that way. Maybe you can enlighten me on this matter. Thanks!

Like · Reply · Nov 14, 2014 6:39am

**Aftab Khan** · Owner at Peace-Forum

If you explore further, at many places it is clearly mentioned that God is one, how can one leave all that and concentrate on anything with dual meanings?

"There is ONE God and one mediator between God and man, the HUMAN BEING Messiah Jesus" (1 Tim. 2:5).

"I ALONE AM GOD! I AM GOD and there is NONE LIKE ME"[Isaiah 46:9] More: <http://bible-christianity.blogspot.com/>

Like · Reply · Jun 14, 2015 10:12am

**Jorge Pescio** · Philadelphia University

ones roots or one's roots HELP....

si sono io...

Like · Reply · Jan 19, 2014 11:35am

**Michelle Livingston** · Medical language specialist/editor at UWorld

Looking for a rule on whether or not to use an apostrophe: ones dinner; or one's dinner. "One's eating ones dinner" or "One's eating one's dinner"? <http://forum.wordreference.com/showthread.php?t=1017>

Like · Reply · Nov 7, 2013 8:57am

**Becca Nicholson** · Copywriter at Socialwrite

Aaron Hepworth see this may help. This is why think it may be a pronoun... all about context. Tricky though as it's not in our notes and is a number so had to find this lol. And if I had to subcategorize then I'd say demonstrative as it is like a determiner... Again hope that helps.

Like · Reply · Sep 22, 2013 3:51pm

**Alfonza Lewis**

ONE.

A. Numeral

HEIS, the first cardinal numeral, masculine (feminine and neuter nominative forms are mia and hen, respectively), is used to signify (1) (b) metaphorically, union and concord, e.g., John 10:30; 11:52; 17:11, 22; Rom. 12:4, 5; Phil. 1:27.

—The Expanded Vines Expository Dictionary of New Testament Words.

"I and My Father are one." John 10:30 (NKJV) Compare John 17:21-23.

And Augustine was right in saying the "We are" condemns the Sabellians (who denied the distinction of Persons in the Godhead), while the "one" (as explained) condemns the Arians (who denied the unity of their essence).

—Jamieson, Fausset and Brown Commentary on the Whole Bible.

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VOLUME I.

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1894

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cause, *cōs*, *v*. [**CAUSED**; **CAUS'ING**.] *I. t. 1.* To be the cause or occasion of; produce; effect; bring to pass.

Reformers . . . forget that the evils they suffer from are caused not solely by . . . (bad) institutions, but by permanent faults of human nature. *Bacon in Contemporary Review* Jan. 31, p. 35.
2. To lead, induce, make, or compel (one to do something); as, it *caused* him to smile.
III. *t.* To show cause or reason. **CAUS'ETER**.
Synonyms: see **MAKE**; **PRODUCE**.

CAUSE, *cōs*, *n.* [**CAUSED**; **CAUS'ING**.] *I. t. 1.* That which produces any thing or event; agent or agency; as, gravitation is the *cause* of the stone's falling; malice is a *cause* of crime. See **EFFICIENT CAUSE**, under **ARISTOTELIAN CAUSES**, below.

One of these self-evident, necessary truths is that every change or new existence requires a *cause*.
MYSTIC Nature and Thought ch. 5, p. 180. [*R. F. & Co. '78.*]
2. Any occasion or condition upon the occurrence of which an event takes place; an occasion; a condition; as, darkness was the *cause* of the man's losing his way; low water in the boiler was the *cause* of the explosion. See **CONDITION**; **OCASION**.

May there not be more than one *cause* singly adequate to produce enhanced wages? *Westminster Review* Oct. '91, p. 364.
3. Any rational ground for choice of action; reason; motive; as, there is *cause* for joy; *cause* for complaint.

Say first, what *cause* Moved our grand parents in that happy state? *Milton P. L.* bk. 1, l. 1.

4. In a comprehensive sense, all the circumstances (powers, occasions, actions, and conditions) necessary for an event and necessarily followed by it; the entire antecedent of an event; the fundamental and philosophical conception of a cause.

By the *cause* of an event we mean the circumstances which have preceded in order that the event should happen. *V. S. JEVONS Lessons in Logic* lesson xviii, p. 229. [*MACM. '78.*]

5. A great enterprise or movement supported by moral reasons and motives; an aim or object that engages the special interest, devotion, or efforts of an individual, association, or party; an important principle or aim; as, the *cause* of charity; the temperance *cause*.

Then conquer we must, when our *cause* is just. *F. S. KEY Star-spangled Banner* st. 4.

I see in him [Kossuth], more than in any other living man, the power which may be exerted by a single honest soul in a noble cause. *BUNNEX Speeches and Addresses* p. 9. [*R. F. & Co. '94.*]

6. **Law.** An action or suit conducted in a court, or an entire judicial proceeding.

CAUSE *be* *action* for delay can call.

In courts where forms are law, fees none at all. *CHURCHILL Rosciad* l. 341.

7. [*Arch.*] Behalf; interest; as, for his *cause*, *R. [Arch.]* The object or end toward which action is directed; purpose; aim. See **FINAL CAUSE**, under **ARISTOTELIAN CAUSES**, below.

For this *cause* I left this Crore, that thou shouldst set in order the things that are wanting. *Titus* l. 6.

[*P.* < *L. cause*, *caus'*.] **CAUSE'FUL**, *a.* [*P.* < *L. causus*, *caus'*.] *I. t.* 1. Having the character of a cause; as, efficient, antecedent, author, causality, causation, condition, creator, designer, former, fountain, occasion, origin, originator, power, precedent, reason, source, spring. The efficient *cause*, that which makes any thing to be or to do, is the common meaning of the word, as in the saying "There is no effect without a *cause*."

Every man instinctively recognizes himself acting through will as the *cause* of his own actions. The *Creator* is the Great First *Cause* of all things. A *condition* is something that necessarily precedes a result, but does not produce it.

An antecedent simply precedes a result, with or without any agency in producing it; as, Monday is the invariable antecedent of Tuesday, but not the *cause* of it. The direct antecedent of a *cause* is *effect*, while that of a condition is *consequent*. An occasion is some event which brings a *cause* into action at a particular moment; gravitation and heat are the *causes* of an avalanche; the steep incline of the mountain-side is a necessary *condition*, and the shout of the traveler may be the occasion of its fall. *Causality* is the doctrine or principle, causation the action or working of causes.

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brimmed. [*< Gr. kausia, < kalō, burn.*] **CAUS'AL-AT**, *cau'sal-āt*, *cōs'al-dī* or *dō*, *n. pl.* *Herp.* A family of ophioglyph snakes with fangs grooved in front. [*< CAUS'AL*.] — **CAUS'AL**, *n.* — **CAUS'AL**, *n.*

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* Pertaining to an advocate, or to the maintenance and defense of suits. [*< LL. causidiculus, < L. causidicus, advocate, < causa, cause, + dico, say.*]

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* 1. Capable of corroding or eating away tissues; burning; corrosive. 2. Causing to smart; stinging; biting; sarcastic and severe.

Her will had grown *causative* with age and bit hard.

A. S. HARDY *Wind of Destiny* ch. 22, p. 141. [*N. M. & Co. '90.*]

3. **Math.** Designating a surface or curve to which all rays reflected or refracted from a curved surface are tangents; so called because along such a surface the heating effect is at the maximum. [*< L. causidicus, < Gr. kausidikos, < kalō, burn.*]

Synonyms: see **ACRID**; **ACRIMONIOUS**.

Phrases: — **CAUS'AL POTASH**, potassium hydroxide or hydrate (KOH). — **C.**, **CAUS'AL**, same as **LUNA** **CAUS'AL**.

— **C.**, **CAUS'AL**, sodium hydroxide or hydrate (NaOH).

— **CAUS'AL-AL**, **CAUS'AL-AL**, *adv.*

CAUS'AL, *n. 1. Med.* A substance that burns animal tissues by chemical action; a corrosive.

That *causative* which he handles in order to scorch others may happen to sear your own fingers.

GEORGE ELIOT *Felix Holt* ch. 13, p. 143. [*N. M. & Co. '77.*]

2. Hence, something cutting or biting, as sarcasm.

Math. A *causative* surface or curve; called a *causative* or a *diacausative*, according as it is produced by reflected or refracted rays. — **LUNA** **CAUS'AL**, silver nitrate formed into pencils and used for cauterizing.

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* The quality or state of being *causative*, or of eating away or corroding; corrosiveness; figuratively, biting satire or sarcasm; satiricalness.

Dunning's cross-examination of this witness was carried on with an indignant *causative* which was long reckoned among his finest efforts. *CHARLEY GREGG* IV, ch. 4, p. 5. [*N. M. & Co. '78.*]

CAUS'AL-NESS, *cōs'al-dī-āl-ēss*, *n.* [*< CAUS'AL*.] [*Rare.*]

To render *causative*. **CAUS'AL-AL**, *n.*

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* 1. **Pathol.** Acute, burning fever. 2. [*< Gr. kausō, < kalō, burn.*]

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* 1. A precautionary measure or proceeding, especially an ecclesiastical caution or admonition as to the proper administration of the sacraments. 2. Craftiness; a trick.

— **CAUS'AL-AL**, *cōs'al-dī-āl*, *n.* Cautious; wary; crafty; cunning.

— **CAUS'AL-AL**, *cōs'al-dī-āl*, *adv.* — **CAUS'AL-AL-NESS**, *n.*

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* [*Rare.*] A searing-iron. [*LL.* < *Gr. kausō, < kalō, burn.*]

CAUS'AL-AL, *cōs'al-dī-āl*, *n.* 1. *Of* or pertaining to *causative* or to a *causative*. 2. *Of* or pertaining to *causative* or to a *causative*.

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ARTFL > Webster's Dictionary > Searching for **cause**:

Displaying 4 result(s) from the 1913 edition:

Cause (Page: 229)

Cause (?), n. [F. *cause*, fr. L. *causa*. Cf. **Cause**, v., **Kickshaw**.]

1. That which produces or effects a result; that from which anything proceeds, and without which it would not exist.

Cause is substance exerting its power into act, to make one thing begin to be. *Locke*.

2. That which is the occasion of an action or state; ground; reason; motive; as, cause for rejoicing.

3. Sake; interest; advantage. [Obs.]

I did it not for his **cause**. *2 Cor. vii. 12*.

4. (Law) A suit or action in court; any legal process by which a party endeavors to obtain his claim, or what he regards as his right; case; ground of action.

5. Any subject of discussion or debate; matter; question; affair in general.

What counsel give you in this weighty **cause**! *Shak*.

6. The side of a question, which is espoused, advocated, and upheld by a person or party; a principle which is advocated; that which a person or party seeks to attain.

God befriend us, as our **cause** is just. *Shak*.

The part they take against me is from zeal to the **cause**. *Burke*.

Efficient cause, the agent or force that produces a change or result. -- Final cause, the end, design, or object, for which anything is done. -- Formal cause, the elements of a conception which make the conception or the thing conceived to be what it is; or the idea viewed as a formative principle and coöperating with the matter. -- Material cause, that of which anything is made. -- Proximate cause. See under **Proximate**. -- To make common cause with, to join with in purposes and aims. *Macaulay*. Syn. -- Origin; source; mainspring; motive; reason; incitement; inducement; purpose; object; suit; action.

Cause (Page: 229)

Cause, v. t. [imp. & p. p. **Caused** (?); p. pr. & v. n. **Causing**.] [F. *causer*, fr. *cause*, fr. L. *causa*. See **Cause**, n., and cf. **Acouse**.] To effect as an agent; to produce; to be the occasion of; to bring about; to bring into existence; to make; -- usually followed by an infinitive, sometimes by *that* with a finite verb.

I will **cause** it to rain upon the earth forty days. *Gen. vii. 4*.

Cause that it be read also in the church of the Laodiceans. *Col. iv. 16*.

Syn. -- To create; produce; beget; effect; occasion; originate; induce; bring about.

Cause (Page: 229)

Cause, *v.* *i.* To assign or show cause; to give a reason; to make excuse. [Obs.] *Spenser*.

Cause (Page: 229)

Cause, *conj.* Abbreviation of **Because**. *B. Jonson*.

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cat-house \ˈkæt-ˈhaʊs\ *n* (1931): BORDELLO
cat-ion \ˈkæt-i-ən, ˈkɑ-ˈji-ən\ *n* [Gk *kation*, neut. of *kation*, prep. of *katiēnai* to go down, fr. *kata-* + *ienai* to go — more at ISSUE] (1834): the ion in an electrolytic solution that migrates to the cathode; broadly: a positively charged ion
cat-ion-ic \ˈkæt-i-ən-ik, ˈkɑ-ˈji-ən-ik\ *adj* (ca. 1920) 1: of, relating to, or being a cation 2: characterized by an active and esp. surface-active cation (a ~ dye) — **cat-ion-i-cal-ly** \-ni-k(ə)-lē\ *adv*
cat-kin \ˈkæt-kən\ *n* [fr. its resemblance to a cat's tail] (1578): a spicate inflorescence (as of the willow, birch, or oak) bearing scaly bracts and unisexual usu. apetalous flowers — called also *ament*
cat-like \ˈkæt-lik\ *adj* or *adv* (1554): resembling a cat; esp.: STEALTHY (with ~ tread, upon our prey we steal — W. S. Gilbert)
cat-mint \-ˈmɪnt\ *n* (13c): any of a genus (*Nepeta*) of Old World temperate-zone herbs of the mint family; esp.: CATNIP 1
cat-nap \-ˈnæp\ *n* (1823): a very short light nap — **catnap** *vi*
cat-nap-per also **cat-nap-er** \ˈkæt-ˈnæp-ər\ *n* [cat + -napper (as in *kid-napper*)] (1942): one who steals cats usu. to sell them for research
cat-nip \-ˈnɪp\ *n* [cat + obs. *nep* catnip, fr. ME, fr. OE *nepte*, fr. L *nepeta*] (1712) 1: a strong-scented perennial mint (*Nepeta cataria*) that has whorls of small pale flowers in terminal spikes and contains a substance attractive to cats 2: something very attractive
cat-o'-nine-tails \ˈkɑ-tə-ˈnɪn-ˈtæɪl\ *n*, pl **cat-o'-nine-tails** (fr. the resemblance of its scars to the scratches of a cat) (1665): a whip made of usu. nine knotted lines or cords fastened to a handle
cat-opt-ic \ˈkæt-ɒp-tik\ *adj* [Gk *katoptikos*, fr. *katoptro* mirror, fr. *katoptēs* that is to be going to observe, fr. *kata-* + *optēs* that is to be going to see — more at OPTIC] (ca. 1766): being or using a mirror to focus light
cat rig (1887): a rig consisting of a single mast far forward carrying a single large sail extended by a boom — **cat-rigged** \ˈkæt-ˈrɪɡd\ *adj*
cats and dogs *adv* (1739): in great quantities; very hard (it was raining cats and dogs)
CAT scan \ˈkæt-ˈskæn\ *n* [computerized axial tomography] (1975): an image made by computed tomography — **CAT scanning** *n*
CAT scanner *n* (1975): a medical instrument consisting of integrated X-ray and computing equipment and used for computed tomography
cat's cradle (1754) 1: a game in which a string looped in a pattern like a cradle on the fingers of one person's hands is transferred to the hands of another so as to form a different figure 2: something that is intricate, complicated, or elaborate (a cat's cradle of red tape)
cat scratch disease *n* (1952): an illness that is characterized by swelling of the lymph glands, fever, and chills and is caused by a bacterium (*Bartonella henselae* syn. *Rochalimaea henselae*) transmitted esp. by a cat scratch — called also *cat scratch fever*
cat's-eye \ˈkæt-si\ *n*, pl **cat's-eyes** (ca. 1599) 1: any of various gems (as a chrysoberyl or a chalcodony) exhibiting opalescent reflections from within 2: a marble with eyelike concentric circles
cat's meow *n* (1926): a highly admired person or thing
cat's-paw \ˈkæt-s-pə\ *n*, pl **cat's-paws** (ca. 1769) 1: a light air that ruffles the surface of the water in irregular patches during a calm 2 [fr. the fable of the monkey that used a cat's paw to draw chestnuts from the fire]: one used by another as a tool; DUPE (the ... government became the ~ for foreign powers — D. J. Boorstin) 3: a hitch knot formed with two eyes for attaching a line to a hook — see KNOT illustration
cat-suit \ˈkæt-sūt\ *n* (1960): a close-fitting one-piece garment that covers the torso and the legs and sometimes the arms
catsup var of KETCHUP
cat-tail \ˈkæt-tāl\ *n* (1548): any of a genus (*Typha*) of the family Typhaceae, the cattail family) of tall reedy marsh plants with brown furry fruiting spikes; esp.: a plant (*Typha latifolia*) with long flat leaves used esp. for making mats and chair seats
cat-tory \ˈkæt-tə-ri\ *n*, pl **cat-tories** (ca. 1843): an establishment for the breeding and boarding of cats
cat-tie \ˈkæt-ti\ *n* pl [ME *catel*, fr. AF *katil*, *chatel* personal property, fr. ML *capitale*, fr. L neut. of *capitālis* of the head — more at CAPITAL] (14c) 1: domesticated quadrupeds held as property or raised for use; specif.: bovine animals on a farm or ranch 2: human beings esp. en masse
cattle call *n* (1952): a mass audition (as of actors)
cattle egret *n* (ca. 1899): a small Old World white egret (*Bubulcus ibis*) introduced into the New World and having a yellow bill and in the breeding season buff on the crown, breast, and back
cattle grub *n* (1926): either of two warble flies (genus *Hypoderma*) esp. in the larval stage: a: COMMON CATTLE GRUB b: a related warble fly (*H. bovis*)
cattle guard *n* (1843): a shallow ditch with rails or bars laid across that are spread far enough apart to prevent livestock from crossing but not people or vehicles
cat-tie-man \-ˈmæn, -ˈman\ *n* (1864): one who tends or raises cattle
cattle prod *n* (1970): a handheld prodding device that delivers an electric shock (as in controlling cattle)
cattle tick *n* (1869): either of two ixodid ticks (*Boophilus annulatus* and *B. microplus*) that infest cattle and transmit the protozoan which causes Texas fever
cat-tie-yā \ˈkæt-ti-ə-, ˈkæt-ti-ə-, -ˈtē-ə\ *n* [NL, fr. Wm. Catley 1832 Eng. patron of botany] (1828): any of a genus (*Catleya*) of tropical American epiphytic orchids with showy hooded flowers
cat-ty \ˈkæt-ti\ *n*, pl **cat-ties** [Malay *kati*] (1598): any of various units of weight of China and southeast Asia varying around 1½ pounds (about 600 grams); also: a standard Chinese unit equal to 1.1023 pounds (500 grams)
cat-ty *adj* **cat-ty-er**, -*est* (1886) 1: resembling a cat; esp.: slyly spiteful; MALICIOUS (made several ~ comments) 2: of or relating to a cat — **cat-ty-ly** \ˈkæt-ti-ē\ *adv* — **cat-ty-ness** \ˈkæt-ti-nəs\ *n*
cat-ty-corner or **cat-ty-cornered** var of KITTY-CORNER
CATV *abbr* 1 cable television 2 community antenna television
cat-walk \ˈkæt-wɔk\ *n* (1845): a narrow walkway (as along a bridge)
Cau-ca-sian \ˈkɑ-kə-ˈzheɪn, kə-ˈzheɪn\ *adj* (1658) 1: of or relating to the Caucasus or its inhabitants 2: of, constituting, or characteristic of a race of humankind native to Europe, N. Africa, and southwest Asia and classified according to physical features — used esp. in referring to persons of European descent having usu. light skin pigmentation — **Caucasian** *n* — **Cau-ca-soid** \ˈkɑ-kə-sɔɪd\ *adj* or *n*

Cau-chy sequence \ˈkɑ-ˈʃeɪ, ˈkə-ˈʃeɪ\ *n* [Augustin-Louis Cauchy 1857 Fr. mathematician] (ca. 1949): a sequence of elements in a metric space such that for any positive number no matter how small there exists a term in the sequence for which the distance between any two terms beyond this term is less than the arbitrarily small number
cau-cus \ˈkɑ-kəs\ *n* [origin unknown] (1763): a closed meeting of a group of persons belonging to the same political party or faction to select candidates or to decide on policy; also: a group of persons united to promote an agreed-upon cause
caucus *vi* (1788): to meet in or hold a caucus
cau-dal \ˈkɑ-dəl\ *adj* [L *cauda*] (1888): toward the tail or posterior end
cau-dal \ˈkɑ-dəl\ *adj* [NL *caudalis*, fr. L *cauda* tail] (1661) 1: of, relating to, or being a tail 2: directed toward or situated in or near the tail or posterior part of the body — **cau-dal-ly** \-də-lē\ *adv*
cau-date \ˈkɑ-dāt\ *adj* (1600): having a tail or a taillike appendage
caudate nucleus *n* (1902): the most medial of the four basal ganglia in each cerebral hemisphere — called also *caudate*
cau-dex \ˈkɑ-deks\ *n*, pl **cau-dex-es** \ˈkɑ-də-ˈsēz\ or **cau-dex-es** (tree trunk or stem) (ca. 1797) 1: the stem of a palm or tree fern 2: the woody base of a perennial plant
cau-dillo-mo \ˈkɑ-dil-ē-ˈyēz-(ə), -ˈtēl-ē-ˈyēz-(ə)\ *n* [Sp, fr. *caudillo*] (1927): the doctrine or practice of a caudillo
cau-dil-lo \ˈkɑ-dil-ē-ˈjō, -ˈtēl-ē-ˈjō\ *n*, pl **cau-dil-las** [Sp, chief, leader, fr. L *capitulum* small head — more at CADET] (1852): a Spanish or Latin-American military dictator
cau-dle \ˈkɑ-dl\ *n* [ME *caudel*, fr. AF **caudel*, *chaudel* fr. *chaud* warm, fr. L *calidus* — more at CAULDRON] (14c): a drink (as for the sick) usu. of warm ale or wine mixed with bread or gruel, eggs, sugar, and spices
caught \ˈkɑt\ *past* and *past part* of CATCH
caught *adj* (1858): PREGNANT — often used in the phrase *get caught*
caul \ˈkɑl\ *n* [ME *calte* net, omentum, prob. fr. OE *cawl* basket] (14c) 1: the large fatty omentum covering the intestines (as of a cow, sheep, or pig) 2: the inner fetal membrane of higher vertebrates esp. when covering the head at birth
caul-dron \ˈkɑl-drən\ *n* [ME, *caudron*, *caldron*, fr. AF *cauderon*, fr. *caldere* basin, fr. LL *caldaria*, fr. fem. of L *caldarius* used for hot water, fr. *calidus* warm, fr. *calere* to be warm — more at LEE] (14c) 1: a large kettle or boiler 2: something resembling a boiling cauldron or intensity or degree of agitation (a ~ of intense emotions)
cau-li-flow-er \ˈkɑ-li-flaʊ-ər, ˈkɑ-, -lē-ə\ *n*, often *attrib* [It *cavolfiore*, fr. *cavolo* cabbage (fr. LL *caulus*, fr. L *caulis* stem, cabbage) + *flore* flower, fr. L *flor*, *flos* — more at COLE, BLOW] (1597): a garden plant (*Brassica oleracea botrytis*) related to the cabbage and grown for its compact edible head of usu. white undeveloped flowers; also: its flower cluster used as a vegetable
cauliflower ear *n* (1904): an ear deformed from injury and excessive growth of reparative tissue
cau-li-flow-er-et \ˈkɑ-li-flaʊ-(ə)-ˈret, ˈkɑ-, -lē-ə\ *n* (1946): a small piece of cauliflower
cau-line \ˈkɑ-li-n\ *adj* [prob. fr. NL *caulinus*, fr. L *caulis*] (1756): of, relating to, or growing on a stem and esp. on the upper part
caulk or **calk** \ˈkɔk\ *vi* [ME *caulken*, fr. AF *cauler*, *calcher*, *chalker* to trample, fr. L *calcare*, fr. *calc*, *calx* heel] (15c): to stop up and make tight against leakage (as a boat or its seams, the cracks in a window frame, or the joints of a pipe) — **caulk-er** *n*
caulk or **calk** also **caulk-ing** or **calk-ing** \ˈkɔk-ɪŋ\ *n* (1954): material used to caulk
caulk var of ²CALK
caus *abbr* causative
causal \ˈkɑ-zəl\ *adj* (ca. 1530) 1: expressing or indicating causation: CAUSATIVE (a ~ clause introduced by *since*) 2: of, relating to, or constituting a cause (the ~ agent of a disease) 3: involving causation or a cause (the relationship ... was not one of ~ antecedence so much as one of analogous growth — H. O. Taylor) 4: arising from a cause (a ~ development) — **caus-al-ly** \-zəl-ē\ *adv*
cau-sal-gia \ˈkɑ-zəl-j(ə)-iə, -ˈsəl-ē\ *n* [NL, fr. Gk *kausos* fever (fr. *kaio* to burn) + NL *-algia*] (1872): a constant usu. burning pain resulting from injury to a peripheral nerve — **cau-sal-gic** \-j(ə)-ik\ *adj*
cau-sal-ly \ˈkɑ-zəl-ē\ *n*, pl **cau-sal-ities** (1603) 1: a causal quality or agency 2: the relation between a cause and its effect or between regularly correlated events or phenomena
cau-sation \ˈkɑ-zə-ˈshən\ *n* (1615) 1 a: the act or process of causing b: the act or agency which produces an effect 2: CAUSALITY
cau-sa-tive \ˈkɑ-zə-tiv\ *adj* (15c) 1: effective or operating as a cause or agent (~ bacteria of cholera) 2: expressing causation; specif.: being a linguistic form that indicates that the subject causes an act to be performed or a condition to come into being — **causative** *n* — **caus-atively** *adv*
cause \ˈkɔz\ *n* [ME, fr. AF, fr. L *causa*] (13c) 1 a: a reason for an action or condition; MOTIVE b: something that brings about an effect or a result c: a person or thing that is the occasion of an action or state; esp.: an agent that brings something about d: sufficient reason (discharged for ~) 2 a: a ground of legal action b: CASE 3: a matter or question to be decided 4 a: a principle or movement militantly defended or supported b: a charitable undertaking (for a good ~) — **cause-less** \-ləs\ *adj*
cause *n* **caused**; **cause-ing** (14c) 1: to serve as a cause or occasion of (~ an accident) 2: to compel by command, authority, or force (caused him to resign) — **cause-er** *n*
cause \ˈkɔz, ˈkɔz\ *conj* (15c): BECAUSE

cau-se \ˈkɔz\ *n*, pl **causes** **cau-les** also **causes** **celebras** \ˈkɔz\ *n*, pl **causes** (1763) 1: a legal case that excites widespread interest 2: a notorious person, thing, incident, or episode
cause of action (15c): the grounds (as violation of a right) that entitle a plaintiff to bring a suit
cau-se-rie \ˈkɔz-ri, ˈkɔz-ri\ *n* [F, fr. *causer* to chat, fr. L *causari* to plead, discuss, fr. *causa*] (1818) 1: an informal conversation (chat) 2: a short informal essay
cause-way \ˈkɔz-wɛɪ\ *n* [ME *cauchwey*, fr. *cauci* + *wey* way] (15c) 1: a raised way across wet ground or water 2: HIGHWAY; esp.: one of ancient Roman construction in Britain — **causeway** *vi*

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cause, v.1

Pronunciation: /kɔːz/

Forms: Also ME *cawse*, *cawes*, 15 *causse*.

Etymology: < medieval Latin *causāre*, as used, by the Schoolmen, in sense 'efficere'. (Classical Latin had only *causāri* (later *causāre*) to plead causes, give reasons or excuses. Hence also Italian *causare*, Spanish *cauzar*, French *causer*, all in same sense as English.)

1.

a. trans. To be the cause of; to effect, bring about, produce, induce, make.

c1340 R. ROLLE *Prose Treat.* viii. 17 A fantasye caused of trubbylyng of þe brayne.

1393 J. GOWER *Confessio Amantis* III. 107 They [the stars] causen many a wonder To the climats, that stond hem under.

c1430 *Chev. Assigne* 39 His moder..þat cawsed moche sorowe.

1526 W. BONDE *Pylgrimage of Perfection* I. sig. Biiiii, That..oftentymes causeth heresyas and errours.

1697 DRYDEN tr. Virgil *Georgics* III, in tr. Virgil *Wks.* 119 A Drench of Wine..the Patient's death did cause.

1764 O. GOLDSMITH *Traveller* 21 How small, of all that human hearts endure, That part which laws or kings can cause or cure.

1871 B. JOWETT in tr. Plato *Dialogues* IV. 47 The ruin of their empire..was caused by the loss of freedom and the growth of despotism.

b. Const. object and inf. with (formerly also without) to.

1393 J. GOWER *Confessio Amantis* III. 114 It causeth..A man to be subtil of wit.

c1485 *Digby Myst.* (1882) IV. 543 How durst thou..to be so bold To cawse hym dy?

1552 ABP. J. HAMILTON *Catech.* I. ii. f. 9^v, It sall cause the cum in greit dangeir.

1611 *Bible (King James)* Amos viii. 9, I will cause the Sunne to go downe at noone.

1612 B. JONSON *Alchemist* II. iii. sig. D3^v, Take heed, you doe not cause the blessing leaue you.

1625 J. HART *Anat. Urines* II. iv. 73, I caused him bleed oftner then once.

1667 MILTON *Paradise Lost* IV. 216 Out of the fertil ground he caus'd to grow All Trees.

1846 W. R. GROVE *On Correlation Physical Forces* 6 It is the gravitation of the water which causes it to flow.

c. with obj. and inf. pass.

- α1513 R. Fabyan *New Cronycles Eng. & Fraunce* (1516) I. iii. f. vi, They..caused great fyres to be made.
 1535 *Bible* (Coverdale) Psalms civ. [cv.] 20 Then sent the kinge and caused him be delyuered.
 1590 SPENSER *Faerie Queene* III. i. sig. Cc3, She caused them be led..Into a bowre.
 1678 N. WANLEY *Wonders Little World* v. ii. §84. 472/2 He..caused his five Brethren to be all strangled in his presence.
 1821 J. Q. ADAMS in C. Davies *Met. Syst.* III. 127 To cause a statement in writing..to be hung up in some conspicuous place.

†d. with *inf.* simply, as **to cause make**, to have or get (something) made, cause (it) to be made. (Cf. French *faire faire*, etc.) *Obs.* ? exc. *Sc.*

- 1535 *Bible* (Coverdale) 1 Kings ii. 36 The kynge sent, and caused for to call Semei.
 α1649 W. DRUMMOND *Hist. James I* in *Wks.* (1711) 5 The King..caused abolish the Indictment.
 1693 T. URQUHART & P. A. MOTTEUX tr. Rabelais *3rd Bk. Wks.* xlv. 358 She caused kill them.
 1753 *Scots Mag.* Feb. 91/2 The directors had caused prepare the draught.
 1820 J. MAIR *Tyro's Dict.* (ed. 10) 5 Numa caused make eleven more [shields] of the same form.

e. with *obj.* sentence. *arch.*

- 1393 J. GOWER *Confessio Amantis* III. 108 That causeth why that some passe Her due cours to-fore another.
 ?1518 *Virgilius* sig. aiiij, She..caused that workemen shulde make the walles ageyne.
 1611 *Bible* (King James) John xi. 37 Could not this man..haue caused that euen this man should not haue died?
 1722 D. DEFOE *Jrnl. Plague Year* 93 This caus'd, that many died frequently..in the Streets suddainly.

†2. To actuate, move, force, drive (an agent) *to* (some action or emotion). *Obs.*

- c1430 *Syr Tryam.* 641 Grete nede cawsyth hur therto.
 c1540 (•?a1400) *Destr. Troy* 13402 What causet the kyng to his cleane yre.

†3. As vb. of incomplete predication: To make or render (a thing something). (Cf. Latin *efficere*.)

- 1576 G. BAKER tr. C. Gesner *Newe Jewell of Health* II. f. 90, If oftener it shall be dystilled, it is then caused the effectuouser.
 1576 G. BAKER tr. C. Gesner *Newe Jewell of Health* II. f. 113, It..causeth them also most white.
 1578 J. LYLY *Euphues* f. 82^v, An honest life will cause it a pleasaunt liuinge.

†4. To give reasons or excuses [= Latin *causāri*].

1590 SPENSER *Faerie Queene* III. IX. sig. Ll4^v, He to shifte their curious request, Gan causen, why she
could not come in place.

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'cause ^{ˈkɔːz} (kôz, kûz)

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conj.

Informal

Because.

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cause ^{ˈkɔːz} (kôz)

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n.

1.

a. The producer of an effect, result, or consequence.

b. The one, such as a person, event, or condition, that is responsible for an action or result.

2. A basis for an action or response; a reason: *The doctor's report gave no cause for alarm.*

3. A goal or principle served with dedication and zeal: "*the cause of freedom versus tyranny*" (*Hannah Arendt*).

4. The interests of a person or group engaged in a struggle: "*The cause of America is in great measure the cause of all mankind*" (*Thomas Paine*).

5. *Law*

a. A lawsuit or criminal prosecution.

b. The ground or basis for a lawsuit.

c. *A subject under debate or discussion.*

tr. v. caused, caus-ing, caus-es

1. To be the cause of or reason for; result in.

2. To bring about or compel by authority or force: *The moderator invoked a rule causing the debate to be ended.*

[Middle English, from Old French, from Latin *causa*, reason, purpose.]

caus a-ble *adj.*

cause less *adj.*

caus er *n.*

Synonyms: cause, reason, occasion, antecedent

These nouns denote what brings about or is associated with an effect or result. A *cause* is an agent or condition that permits the occurrence of an effect or leads to a result: "*He is not only dull in himself, but the cause of dullness in others*" (Samuel Foote).

Reason refers to what explains the occurrence or nature of an effect: *There was no obvious reason for the accident.*

Occasion is something that brings on or precipitates an action, condition, or event: "*Injustice provides the occasion for change*" (Alan Dershowitz).

Antecedent refers to what has gone before and implies a relationship—but not necessarily a causal one—with what ensues: *Some of the antecedents of World War II lie in economic conditions in Europe following World War I.*

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Entitle (Page: 497)

En*ti"tle (?), v. t. [imp. & p. p. **Entitled** (?); p. pr. & vb. n. **Entitling** (?).] [OF. entituler, F. intituler, LL. intitulare, fr. L. in + titulus title. See **Title**, and cf. **Intitule**.]

1. To give a title to; to affix to as a name or appellation; hence, also, to dignify by an honorary designation; to denominate; to call; as, to entitle a book *Commentaries*;" to entitle a man *Honorable*."

That which . . . we **entitle** patience. *Shak.*

2. To give a claim to; to qualify for, with a direct object of the person, and a remote object of the thing; to furnish with grounds for seeking or claiming with success; as, an officer's talents entitle him to command.

3. To attribute; to ascribe. [Obs.]

The ancient proverb . . . **entitles** this work . . . peculiarly to God himself. *Milton.*

Syn. -- To name; designate; style; characterize; empower; qualify; enable; fit.

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en-ter-tain-ment \en-tar-'tā-mənt/ *n* (15c) 1: the act of entertaining 2 *a* *archaic*: MAINTENANCE, PROVISION *b* obs: EMPLOYMENT 3 *a*: amusement or diversion provided esp. by performers (hired a band to provide ~) *b*: something diverting or engaging: as (1): a public performance (2): a wux. light comic or adventure novel

en-thal-py \en-'thal-pē, en-'l/ *n* [en- + Gk *thalpein* to heat] (ca. 1924) 1: the sum of the internal energy of a body or system and the product of its volume multiplied by the pressure

en-thrall or **en-thral** \en-'thrāl, en-'l/ *v* *en-thrall*ed; *en-thrall*-ing [ME] (15c) 1: to hold in or reduce to slavery 2: to hold spellbound

throne-ment \-'thrōn-mənt/ *n* *CHARM* — **en-thrall-ment** \-'thrāl-mənt/ *n*

en-throne \en-'thrōn, en-'l/ *v* (ca. 1593) 1 *a*: to seat in a place associated with a position of authority or influence *b*: to seat ceremonially on a throne 2: to assign supreme virtue or value to: EXALT — **en-throne-ment** \-'thrōn-mənt/ *n*

en-thuse \en-'thūz, en-, also -'thūz/ *v* *en-thused*; *en-thus*-ing [back-formation fr. *enthusiasm*] *v* (1827) 1: to make enthusiastic (is *enthusied* about the project) 2: to express with enthusiasm ~ *v*: to show enthusiasm (a splendid performance, and I was *enthusied* over it — Julian Huxley)

usage *Enthuse* is apparently American in origin, although the earliest known example of its use occurs in a letter written in 1827 by a young Scotsman who spent about two years in the Pacific Northwest. It has been disapproved since about 1870. Current evidence shows it to be flourishing nonetheless on both sides of the Atlantic esp. in journalistic prose.

en-thu-si-asm \en-'thū-zē-'zəm, en-, also -'thū-'z/ *n* [Gk *enthousiasmos*, fr. *enthousiastēs* to be inspired, *lyra*, fr. *enthous* inspired, fr. *en-* + *theos* god] (1603) 1 *a*: belief in special revelations of the Holy Spirit *b*: religious fanaticism 2 *a*: strong excitement of feeling: ARDOR (did her work with energy and ~) *b*: something inspiring zeal or fervor (his ~ include sailing and fishing) *syn* see *PASSION*

en-thu-si-ast \-'ast-, -ast/ *n* (1570) 1: a person filled with enthusiasm: as *a*: one who is ardently attached to a cause, object, or pursuit (a sports car ~) *b*: one who tends to become ardent y absorbed in an interest

en-thu-si-ast *c* \en-'thū-zē-'ast-ik, en-, also -'thū-'ad/ *adj* (1603) 1: filled with or marked by enthusiasm (~ supporters) (an ~ recommendation) — **en-thu-si-ast-i-cal-ly** \-'ast-ik(ə)-lē/ *adv*

en-thy-mi-asm \en-'thī-'mī-'zəm/ *n* [L *enthymema*, fr. Gk *enthymēma*, fr. *enthymēsthai* to keep in mind, fr. *en-* + *thymos* mind, soul] (1552) 1: a syllogism in which one of the premises is implicit

en-tice \en-'tis, en-'l/ *v* *en-ticed*; *en-tic*-ing [ME, fr. AF *enticer*, fr. VL *entice*, fr. L *in-* + *titio* to entice] (14c) 1: to attract artfully or adroitly or by arousing hope or desire: TEMPT *syn* see *LURE* — **en-tice-ment** \-'tis-mənt/ *n* — **en-tic-ing-ly** \-'tis-ŋ-lē/ *adv*

en-tire \en-'tīr, en-'l/ *adj* [ME *entire*, *entire*, fr. AF *entier*, *entier*, fr. L *integer*, lit., untouched, fr. *in-* + *tangere* to touch — more at *TANGENT*] (14c) 1: having no element or part left out: WHOLE (was alone the ~ day) 2: complete in degree: TOTAL (their ~ devotion to their family) 3 *a*: consisting of one piece *b*: HOMOGENEOUS, UNMIXED *c*: INTACT (store to keep the collection ~) 4: not castrated 5: having the margin continuous or free from indentations (an ~ leaf) *syn* see *WHOLE*, *PERFECT* — **en-tire-ly** \-'tīr-ē-lē/ *adv*

en-tire-ly \-'tīr-ē-lē/ *adv* (14c) 1: to the full or entire extent: COMPLETELY (I agree ~) (You are ~ welcome) 2: to the exclusion of others: SOLELY (~ by my own efforts)

en-tire-ty \en-'tīr-ē-ty/ *n* (1548) 1: the state of being entire

en-tire-ty \en-'tīr-ē-ty/ *n* (1548) 1: the state of being entire

en-tire-ty \en-'tīr-ē-ty/ *n* (1548) 1: the state of being entire

en-tire-ty \en-'tīr-ē-ty/ *n* (1548) 1: the state of being entire

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en-tire-ty \en-'tīr-ē-ty/ *n* (1548) 1: the state of being entire

ing to, or being the part of the cerebral cortex in the medial temporal lobe that serves as the main cortical input to the hippocampus

en-tour-age \en-'tū-'rāzh/ *n* [F, fr. MF *entourer* to surround, fr. *en-* + *tour* circuit — more at *TURN*] (ca. 1834) 1: one's attendants or associates 2: SURROUNDINGS

en-tracte \en-'trakt, -'trakt, -'trakt/ *n* [F, fr. *entre-* + *acte* act] (ca. 1842) 1: a dance, piece of music, or interlude performed between two acts of a play 2: the interval between two acts of a play

en-trails \en-'trāil, -'trāil/ *n* *pl* [ME *entraillies*, fr. AF, fr. ML *intuscia*, alter. of L *inter-anea*, *pl.* of *intuscaum* intestine, fr. neut. of *intuscaum* interior] (14c) 1: BOWELS, VISCERA; broadly: internal parts 2: the inner workings of something (the ~ of the movie industry)

en-train \en-'trān/ *v* [MF *entraîner*, fr. *en-* + *train* to draw, drag — more at *TRAIN*] (1568) 1: to draw along with or after oneself 2: to draw in and transport (as solid particles or gas) by the flow of a fluid 3: to incorporate (air bubbles) into concrete 4: to determine or modify the phase or period of (circadian rhythms ~ed by a light cycle) — **en-train-er** *n* — **en-train-ment** \-'trān-mənt/ *n*

en-train-er *n* (1881) 1: to put aboard a train ~ *v*: to go aboard a train

en-trance \en-'tranz/ *n* (15c) 1: power or permission to enter: ADMISSION 2: the act of entering 3: the means or place of entry 4: the point at which a voice or instrument part begins in ensemble music 5: the first appearance of an actor in a scene

en-trance \en-'tranz/ *v* *en-tranced*; *en-tranc*-ing (1541) 1: to put into a trance 2: to carry away with delight, wonder, or rapture (we were *entranced* by the view) — **en-trance-ment** \-'tranz-mənt/ *n*

en-trance-way \en-'tranz-'wā/ *n* (1849) 1: ENTRYWAY

en-trant \en-'tranz/ *n* (1635) 1: one that enters; esp.: one that enters a contest

en-trap \en-'trap, en-'l/ *v* [MF *entraper*, fr. *en-* + *trape* trap] (1534) 1: to catch in or as if in a trap 2: to lure into a compromising statement or act *syn* see *CATCH*

en-trap-ment \-'tranz-mənt/ *n* (1597) 1 *a*: the action or process of entrapping *b*: the condition of being entrapped 2: the action of luring an individual into committing a crime in order to prosecute the person for it

en-treat \en-'trēt, en-'l/ *v* [ME *entreten*, fr. AF *entreter*, fr. *en-* + *trēter* to treat] *v* (14c) 1 *a*: REQUEST *b*: INTERCEDE 2: to make an earnest request: PLEAD ~ *v*: to plead with esp. in order to persuade: ask urgently (~ed his boss for another chance) 2 *archaic*: to deal with: TREAT *syn* see *SEE* — **en-treat-ing-ly** \-'trēt-ŋ-lē/ *adv* — **en-treat-ment** \-'trēt-mənt/ *n*

en-treat-ment \-'trēt-mənt/ *n*

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en-treat-ment \-'trēt-mənt/ *n*

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entitle, v.

Pronunciation: /ɛnˈtaɪt(ə)l/

Forms: ME–16 **entyle**, (**entytel**, **entitele**), ME– **entitle**. Also ME–16 **intyle**, (**intitele**), ME–18 **intitle**.

See also INTITULE *v.*

Etymology: < Anglo-Norman *entitler*, Old French *entiteler*, *entituler*, modern French *intituler*, corresponding to Provençal *entitolar*, *intitular*, Italian *intitolare*, late Latin *intitulāre*, < *in* *in* + *titulus* *TITLE* *n.*

I. From *TITLE* *n.* = ‘superscription, designation’.

1.

a. trans. To furnish (a literary work, a chapter, etc.) with a heading or superscription; in early use *gen.* (cf. *TITLE* *n.*). Subsequently only in narrower sense: To give to (a book, etc.) a designation by which it is to be cited, or which indicates the nature of its contents. Chiefly with *obj.* *compl.*; also *const.* †*by*, †*with*.

α.

c1381 CHAUCER *Parl. Foules* 30 This booke..Entitled was right thus..Tullius of the dreame of Scipion.

1388 WYCLIF *Jerome's Prol. Rom.* The epistil..that to Ebrues ys writen..is not entitlid with his [Paul's] name.

1483 CAXTON tr. *Caton* A ij b, This book..ought to be entytled the reule and gouvernement of the body and of the sowle.

1581 R. MULCASTER *Positions* Ep. Ded. sig. iij, I haue entituled the booke Positions.

1605 BACON *Of Advancem. Learning* I. sig. E1v, To dedicate them [sc. books]..to priuate and equall friendes, or to intitle the Bookes with their Names.

1792 *European Mag. & London Rev.* Nov. 363 This section Mr. S. entitles, ‘Of the Use and Abuse of general Principles in Politics’.

1888 H. MORLEY *Eng. Writers* III. 179 A book entitled ‘De Nugis Curialium’.

β.

?a1475 (▷a1425) tr. R. Higden *Polychron.* (Harl.) (1865) I. 25 In his Policraticon, whom he intituled de Nugis Curialium.

a1533 LD. BERNERS tr. A. de Guevara *Golden Bk. M. Aurelius* (1546) sig. B.iiijv, I will intitle this boke the Golden boke.

1542–3 *Act 34 & 35 Hen. VIII* c. 1 Bookes..intiteled..the psalter, primers, praiers, statutes and lawes of this realme.

1738 T. BIRCH *Life Milton* in *Wks.* (1738) I. 76 The Icon was at first intituled by the King Suspiria Regalia.

1793 J. SMEATON *Narr. Edystone Lighthouse* (ed. 2) Contents 7 Extracts from a Book intituled the Storm.

†b. To inscribe, dedicate (a book) *to* a person.

- α1464 J. CAPGRAVE *Abbreviacion of Cron.* (Cambr. Gg.4.12) (1983) 119 Doctour Gilis..entitled it [sc. the bok *Of Gouvernauns of Princes*] to Philip, dauphin of Frauns.
- 1607 S. HIERON *Remedie for Securitie in Wks.* (1620) I. Ded. sig. Pp iijj, I haue thought good to commend some of my poore labours vnto you, by a more particular entitling them to your name.

†c. To ascribe (a literary work) *to* an author. With mixed notion of 5c.

- 1550 T. CRANMER *Def. Sacrament* f. 50v, In an other booke, entitled to saint Augustine, is written thus, etc.
- 1575 W. FULKE *Confut. Doctr. Purgatory* (1577) 216 Ecclesiasticus and the booke of Wisdome, falsely intituled to Salomon.
- 1671 H. STUBBE *Reply Def. Royal Soc.* 17 My Adversaries will here allow no other Book to be Entitled unto the R.S. but what is licensed by their President.
- 1699 R. BENTLEY *Diss. Epist. Phalaris* (new ed.) Introd. 14 Dionysius made a Tragedy called Parthenopæus, and intituled it to Sophocles.
- 1724 SWIFT *Let.* 28 Apr. The other [tract] is entitled to a Weaver..but thought to be the work of a better hand.

†d. ? To prefix the name of (an alleged author) *to*. *Obs.* (Perh. belongs to 5.)

- α1745 SWIFT (T.), We have been entitled, and have had our names prefixed at length to whole volumes of mean productions.

2. To bestow on (a person) a certain title or designation expressing his rank, office, or character; to speak of (a person) by a certain title. Formerly also, to give a certain designation to (a thing). *Const.* as in 1.

α.

- 1447 O. BOKENHAM *Lyvys Seyntys* (1835) Introd. 3 Galfryd of Ynglond in his newe werk Entytlyd thus as I can aspye Galfridus Anglicus.
- 1590 R. HARVEY *Plaine Percevall* sig. B4, It were enough to entitle those Browne sectaries of the Blacke Prince, with the name of traytors.
- 1602 W. FULBECKE *Pandectes* 21 The kings and Queenes of England entitling themselues kings and Queenes of Fraunce.
- 1667 MILTON *Paradise Lost* xi. 171 Next favourable thou, Who highly thus to entitle me voutsafst.
- 1683 J. RAY *Corr.* (1848) 135 He entitles it *Conyza acris annua alba*.
- 1711 T. HEARNE *Remarks & Coll.* (1889) III. 147 Please entitle S. only Bart.
- 1860 E. B. PUSEY *Minor Prophets* Joel 139 Here entitled by the incommunicable Name of God.

β.

- 1597 SHAKESPEARE *Richard II* I. ii. 33 That which in meane men we intitle Patience, Is pale cold Cowardice.
- 1605 W. CAMDEN *Remaines* II. 35 Mawd., who intitled her selfe Empresse.
- 1616 SHAKESPEARE *Taming of Shrew* (1623) IV. vi. 62 And now by Law, as well as reuerent age, I may intitle thee my louing Father.
- 1728 J. MORGAN *Compl. Hist. Algiers* I. ii. 232 They intitled him Sultan.

†3. To write down under proper titles or headings. *Obs.*

α.

- 1430 LYDGATE in *Lay Folks Mass Bk.* (1879) 394 Somme entytlen hem in smale bookes of Report.
- 1463 ABBOT OF LANGLEY in *Paston Lett. & Papers* (2004) II. 372 And more þinges..which I entytelyd in a scrowe.
- 1533 J. FRITH *Bk. answeringe Mores Let.* sig. Aij^v, He desyred me to entitle the somme of my wordes and write them for him.

β.

- 1533-4 *Act 25 Hen. VIII* c. 21 §9 One sufficient clerke..shall intitle in his bokes and enroll of recorde such other writings.
- 1582 T. BENTLEY et al. *Monument of Matrones* After the good example of the learned fathers of our time, to intitle, reduce, & applie those other godlie meditations & praiers.

II. From TITLE *n.* = 'right to possession'.

4.

a. To furnish (a person) with a 'title' to an estate. Hence *gen.* to give (a person or thing) a rightful claim to a possession, privilege, designation, mode of treatment, etc. Const. *to* with *n.* or *inf.*; also *simply*. Also *absol.* Now said almost exclusively of circumstances, qualities, or actions; formerly often of personal agents.

α.

- 1471 W. WORCESTER in *Paston Lett. & Papers* (2004) II. 356, I..entitled no crettur to no place.
- 1530 J. PALSGRAVE *Lesclarcissement* 538/1 By what meanes is he entyteled unto these landes.
- 1647 N. BACON *Hist. Disc. Govt.* xlvii. 123 The Emperours could intitle the Pope to no power here, because none he had.
- 1652 T. WHITFIELD *Doctr. Arminians* 8 His dying for the elect is a sufficient ground to entitle him.
- 1711 J. ADDISON *Spectator* No. 257. ¶8 [God] will hereafter entitle many to the Reward of Actions, which they had never the Opportunity of performing.
- 1725 D. DEFOE *New Voy. round World* II. 124 Such a Quantity, as might intitle that Water to the Name of the Golden-Lake.
- 1798 J. FERRIAR *Certain Var. Man* 223 Every man thinks himself entitled to observe and to publish.
- 1818 W. CRUISE *Digest Laws Eng. Real Prop.* (ed. 2) I. 138 The first tenant in tail who is born

becomes entitled to any timber felled by the tenant for life.

- 1823 W. HENRY *Elements Exper. Chem.* (ed. 9) I. ix. 610 The remaining salts of alumina have no properties sufficiently important to entitle them to a separate description.
- 1832 H. MARTINEAU *Demerara* ii. 15 Better entitled than most of his brethren to complain of neglect.
- 1838 A. DE MORGAN *Ess. Probabilities* 188 If each had been entitled to his fraction of the sum which would have become due had he lived to the end of the year.
- 1875 E. POSTE tr. Gaius *Institutionum Iuris Civilis* (ed. 2) III. Comm. 396 The obligation by which the co-creditors are entitled.
- 1897 *Daily News* 19 Jan. 5/4 A post that does not entitle to a seat in the Lords.

β.

- 1495 *Act 11 Hen. VII* c. 2 §4 It shalbe lafull to every man intitled to have the seid penaltie to distreyn for it.
- c1571 E. CAMPION *Two Bks. Hist. Ireland* (1963) II. ii. 79 Entitled to thirty thousand markes yerely.
- 1695 W. W. *Novum Lumen Chirurg. Extinctum* p. iii, With how much Justice it's intitled to such a Name.
- 1740 S. RICHARDSON *Pamela* I. xix. 46 Who..thinks himself intitled to call me Bold-face.
- 1769 W. ROBERTSON *Hist. Charles VIII.* ix. 133 A higher rank in the temple of fame than either his talents or performances intitle him to hold.

b. spec. To furnish with a TITLE *n.* to orders.

- 1720 W. KENNETT *Monitions to Clergy of Peterborough* i. 16, I must expect and insist upon it, that you Intitle no Curate, without, etc.

†c. To invest *with* an office, etc. *Obs.*

- 1587 D. FENNER *Def. Godlie Ministers* sig. Fiii^v, Seeing you must..intitle the Magistrate with the Pastors office.
- 1662 T. FULLER *Worthies* (1840) Bring the last who was entitled..with that dignity.

†d. To qualify, render apt. Const. *to. Obs.*

- 1628 O. FELLTHAM *Resolves: 2nd Cent.* xix. sig. L6^v, There is a noblenesse in the mind of man, which of it selfe, intitles it, to the hatred of what is ill.
- 1650 T. FULLER *Pisgah-sight of Palestine* III. 402 The Temple..visibly intitled it self to fortification.

†e. To assign the possession of (something) *to*; to settle (an estate) *on* a person. *Obs.*

- 1608 S. HIERON *Def. Ministers Reasons* II. 25 The attribute 'your Prince', giuen to Michael, entitleth the name Michael to Christ only.

1674 R. GODFREY *Var. Injuries in Physick* 145 He intitled his Inheritance on his Sister.

†f. Phrase, *to entitle and engage*.

1641 MILTON *Of Reformation* 13 To intitle and ingage a glorious Name to a grosse corruption.

1649 in E. Nicholas *Nicholas Papers* (1886) I. 149 To intitle and engage the Queen to espouse as her owne quarrell whatever reflects upon Lord Jermyn.

†5.

a. To regard or treat (a person) as having a title *to* something. Hence, to represent (a person or thing) as the agent, cause, or subject of a particular action, effect, condition, or quality. Const. *in*, *to*, with *n.*, rarely with *inf.* *Obs.*

α.

1647 J. MAYNE *Serm. against False Prophets* 2 Never plot was hatcht to disturb the Commonwealth, but the writings of some Sybill or other were entitiled to that plot.

1662 E. STILLINGFLEET *Origines Sacrae* III. iii. §7 Supposing Gods giving man this freedom of will, doth not entitle him to be the author of evill.

α1682 SIR T. BROWNE *Let. to Friend* (1690) 4, I was not so curious to entitle the Stars unto any concern of his Death.

1690 J. LOCKE *Two Treat. Govt.* I. xi. §154 How ready Zeal for Interest and Party is to entitle Christianity to their Designs.

β.

1612 BACON *Ess.* (new ed.) 206 Wherein a man is..most defective..that wil the flatterer entitle him to perforce.

1649 BP. J. TAYLOR *Great Exemplar* II. 100 Nor intitle God in our impotent..fansyes.

1663 J. SPENCER *Disc. Prodigies* (1665) 359 An event to which I incline to intitle the especial agency of the Devil.

†b. *refl.* To lay claim *to*. *Obs.*

1655 T. FULLER *Church-hist. Brit.* I. i. §4 Churches are generally ambitious to entitle themselves to Apostles, for their Founders.

1672 W. LLOYD *Funeral Serm. Bp. of Chester* 35 To entitle themselves to dying men, even those, whose whole life was a Testimony against them.

α1718 W. PENN *Life in Wks.* (1726) I. 155 Such as intitle themselves to Christianity, whilst Strangers to the Terrors of the Lord for Sin.

†c. To impute (something) *to*. *Obs.* Cf. 1c.

- 1629 W. PRYNNE *Church of Englands Old Antithesis* 131 What testimonies these Arminian Errors can rake vp together, to intitle themselves vnto our Church.
- 1647 H. MORE *Philos. Poems* Pref. sig. B2, If we can but once entitle our opinions..to Religion.
- a1662 P. HEYLYN *Cyprianus Angl.* (1668) 127 The entitling of these Doctrines to the name of Arminius.
- 1665 J. GLANVILL *Sciri Tuum: Authors Defense* 37 in *Scepsis Scientifica* Intitling the Opinion of Intentional Species to Aristotle.

DERIVATIVES

en'titling *n.*

- a1662 P. HEYLYN *Cyprianus Angl.* (1668) 127 The entitling of these Doctrines to the name of Arminius.

en'titler *n.* one who entitles, or gives a title or name to.

- 1653 G. ASHWELL *Fides Apostolica* 225 And this may be therefore judged the..most likely to be intended by the first entitlers.

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per-mit ¹ (pər-mīt)

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v. per-mit-ted, per-mit-ting, per-mits

v.tr.

1. To allow the doing of (something); consent to: *permit the sale of alcoholic beverages.*
2. To grant consent or leave to (someone); authorize: *permitted him to explain.*
3. To afford opportunity or possibility for: *weather that permits sailing.*

v.intr.

To afford opportunity; allow: *if circumstances permit.*

n. (pûr mīt, pər-mīt)

A document or certificate giving permission to do something: *a building permit.*

[Middle English *permitted*, from Latin *permittere* : *per-*, through; see *PER-* + *mittere*, to let go.]

per-mit-tee (pûr'mī-tē) n.

per-mit-ter n.

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per-mit ² (pûr mīt, pər-mīt)

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n.

A carangid fish (*Trachinotus falcatus*) of the western Atlantic Ocean, having a laterally compressed silvery body and a deeply forked tail and valued as a food and game fish.

[Alteration of Spanish *palometa*, a species of pompano (*Trachinotus ovatus*), any of several other species of fish, probably ultimately from Doric Greek **pālamus*, *pālamud-*, variant of Greek *pēlamus*, *pēlamud-*, young tuna, tuna in its first year, of unknown origin.]

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Senate Bill.

No. 72

INTRODUCED BY MR. MAHER,

JANUARY 9, 1893.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

AN ACT

TO PROVIDE FOR A DAY OF REST FROM LABOR.

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every person employed in any occupation of labor shall be entitled to one
2 day's rest therefrom in seven; and it shall be unlawful for any employer of labor to cause his
3 employes, or any of them, to work more than six days in seven.

Sec. 2. For the purposes of this Act, the term day's rest shall mean and apply to all
2 cases, whether the employe is engaged by the day, week, month, or year; and whether the
3 work performed is done in the day or night time.

Sec. 3. Any person violating the provisions of this Act shall be deemed guilty of a mis-
2 demeanor.

Sec. 4. This Act shall take effect and be in force thirty days from and after its passage.

Assembly Bill.

No. 190

INTRODUCED BY MR. BOYCE,

JANUARY 11, 1893.

REFERRED TO COMMITTEE ON PUBLIC MORALS.

AN ACT

TO PROVIDE FOR A DAY OF REST FROM LABOR.

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every person employed in any occupation of labor shall be entitled to one
2 day's rest therefrom in seven; and it shall be unlawful for any employer of labor to cause his
3 employes, or any of them, to work more than six days in seven.

SEC. 2. For the purposes of this Act, the term "day's rest" shall mean and apply to all
2 cases, whether the employe is engaged by the day, week, month, or year, and whether the
3 work performed is done in the day or night time.

SEC. 3. Any person violating the provisions of this Act shall be deemed guilty of a mis-
2 demeanor.

SEC. 4. This Act shall take effect and be in force thirty days from and after its passage.

Limit of
expenses to
be paid out
of General
Road
Fund.

by a two-thirds vote, may cause a portion of such awards and expenses to be paid from the General Road Fund; *provided, however, that not to exceed ten per cent of the General Road Fund shall be devoted to such purposes in any one fiscal year.* If the road lies in more than one district, the Supervisors must proportionately divide the awards and other costs between said districts; *provided, however, that when money is paid out by any interested person the same may be given to the credit of either fund, at the discretion of the Board.*

Sec. 2. This Act shall take effect immediately.

CHAPTER XLI. ✓

An Act to provide for a day of rest from labor.

[Approved February 27, 1893.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Day of rest. SECTION 1. Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven; and it shall be unlawful for any employer of labor to cause his employes, or any of them, to work more than six days in seven; *provided, however, that the provisions of this section shall not apply to any case of emergency.*

Meaning of
term used. SEC. 2. For the purposes of this Act, the term day's rest shall mean and apply to all cases, whether the employe is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

SEC. 3. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor.

SEC. 4. This Act shall take effect and be in force thirty days from and after its passage.

CHAPTER XLII.

An Act fixing the price and conditions of sale at which jute goods shall be sold by the State.

[Approved February 27, 1893.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

State Board
of Prison
Directors
to fix price
of jute
goods. SECTION 1. It shall be the duty of the State Board of Prison Directors, from time to time, to fix the price, and to give public notice of the same, at which jute goods shall be sold by the State, but at no time shall the price fixed be more than one cent per bag in excess of the net cost of producing the same,

Millions Stolen From Canal Investors—The Royalists at Work.

down the true condition of affairs on the
 campus of Kansas. Fontaine stated that

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1

The inquiry into the "well" will begin tomorrow by the Committee on Public Morals. The main question is: By what right does it exist and who derives the benefit? Blathorne of Tehama introduced a bill in the Assembly to-day to empower the State Board of Agriculture to build an addition to the west end of the pavilion 100x400 feet in dimensions, to be designated "Agricultural Implement and Machinery Hall," and also to cause the removal of the temporary sheds and fencing now in use on the northwest and southwest corners or alcoves of the State building. They are to erect an ornamental iron fence, and the State gardener, under the direction of the Capitol Commissioners, is to beautify and care for the courts. An appropriation of \$44,000 for the work is to be made. On the other hand there is a decided disposition to abandon the lot entirely as a State proposition and to let it go as a corporate enterprise, as is the case in most States. There is also a movement in favor of stopping the appropriations to the district fairs, all of which are really private enterprises, and should stand on their own merits. Judge Van Dyke, Percey Beach and a contingent of San Francisco politicians came up to-day and are mingling with the boys in the corridors. They all appear to have diverse interests. John G. Quinn, collector of internal revenue, is also in the city. He has some amendments in the ballot law and a purely primary law which he is paying the way for. It is safe to say that there will be little or no legislation until after Tuesday next, and not then unless the United States Senatorship is disposed of. Until that question is out of the way little will be accomplished.

IN THE SENATE.
A Measure to Create an Industrial Home for Girls.
SACRAMENTO, January 11.—For just five minutes the sun peeked through a rift in the clouds this afternoon and it was the first ray of warmth the Capitol has experienced for eleven long days. It was 1:25 o'clock when old Sol appeared, and at 1:58 o'clock he again retired behind his black curtain. If the Senators went crazy with delight when the rays dashed through the windows they may be excused, because for over a week past they have been a shuddering, shivering, blue-moored crowd of statesmen.
The Senate was taking a recess, and the members who lingered in the chamber discarded their overcoats, formed rings and joined hands and capered around the floor like a pack of boys turned loose from school. The newspaper correspondents lifted up their voices and sang the doxology, while Ed J. Niles, clerk to the sergeant-at-arms, in the absence of the chaplain, offered up thanks. But the joy was of short duration, for the sun became weary of being on exhibition, and soon the dignified Senators were again perched on top of the patent heaters swapping views on proposed legislation.
The success of the Whittier Reform School has inspired many of the law-makers to regard with favor the Senate bill to create an industrial school for girls at Santa Clara. The bill which Bailey introduced provides for an appropriation of \$25,000 to be expended in transferring the Home to a place where wayward girls between the ages of 8 and 18 years may be reformed and taught to become good wives, mothers and housekeepers. The idea is

to be put into effect after January, 1905.
Assembly joint resolution No. 10, introduced by Anthony of San Benito, recites that Congress on September 20, 1890, declared certain railroad lands in Monterey, Fresno and San Benito counties forfeited which had been sold by the railroad to settlers at \$2 50 per acre. The California Congressional delegation is urged to secure the passage of an act refunding to settlers all sums paid by them for lands in excess of the Government price of \$1 25 per acre.
Bulle of Los Angeles introduced an act to provide for the assessment of property for taxation and for the collection and paying over of taxes of cities and municipal corporations by the county.
Andrew of Los Angeles presented a non-concurrent resolution, which was referred to the Public Land Committee, reciting that applicants for the purchase of public lands had been informed somehow of the legal status of lands owned by the Secretary of the Interior and made public his decision in which he held that settlers and buyers from the State have no title to such lands, although they have resided upon the lands for many years and have made improvements valued at about \$100,000. It asks that the Committee on Public Lands be directed to ascertain if the Secretary of the Interior quotes the law correctly with reference to the act of Congress granting such lands to California; if the State Surveyor-General was in fault in advising settlers that their applications were legal, and also if settlers have a claim against the State for the amounts paid for their lands.
Munroe of Santa Clara introduced an act providing for the (increase) of the annual appropriation for support of the aged and infirm, also appropriating \$50,000 for the "Volunteer Home in Santa Clara county."
Holbrook of California presented an act for the formation of agricultural districts and of agricultural associations therein and for the management and control of the same by the State.
Anderson of Sacramento presented a bill which adds seventeen new sections to the Reclamation Code relative to the reclamation of swamps, overgrown and other lands and to provide for works of drainage and reclamation to be constructed by reclamation districts as organized under the code. The act provides that fifty or more land owners within two or more reclamation districts in danger of the overflow or which may be benefited by some system of drainage works may propose organization under a new reclamation district, petitioning the Surveyor-General to that effect, who shall lay the matter before the Governor. The Governor shall then appoint two of the property owners who, with the Surveyor-General, shall constitute a commission to hold office four years and to hear petitions, to fix boundaries, to employ competent engineers and to perform all acts required under the code, the board to hold quarterly meetings and to have a right to acquire by purchase or power of eminent domain all lands and property necessary for the construction of its improvements.
The appointment of three assessors to make pro rata assessment of land-owners in the district is voted in the Governor, and the assessments are to be placed in the county treasury, subject to the order of the commission. Other necessary funds are raised from appropriation from the State treasury, from money appropriated from the United States treasury for river improvements and from the sale of district bonds. Provision is made for the issuance of ten, fifteen and twenty year bonds at 6 per cent interest whenever the cost of improvements shall be estimated at a million dollars. The bonds are to be paid by the assessments above specified.
Dres introduced a bill, which was sent to the Ways and Means Committee, abolishing the State drainage construction fund and the transferring of any moneys in the fund to the general fund.
Boyes of San Francisco introduced his San-

Francisco bill, "for a piece of machinery and has never forgiven Brown."
It is said that the Registrar's quondam friend also has more serious matters laid up against him.
HUNTING WILL BE GOOD.
The Pacific Coast Field Trials Promise Favorably.
BARKERFIELD, January 11.—The Pacific coast field trials will commence here on Monday next and the outlook is very favorable, although many people say that the birds are not so plentiful as in the previous meetings. Those having the honor in charge, however, claim that the hunting grounds have been well prepared for the pot-hunters. A great many people will attend. The citizens are getting up a purse for the derby, which will probably reach \$300.
The Barkerfield and San Miguel Railway runs through the valley close to where the best hunting is found, and arrangements have been made with the officials for special travel during the trials. A large number of fine dogs are here under training. A heavy fog has been hanging over the valley during the past week.
CROPS IN THE SOUTH.
Barley Promises a Big Yield—Oranges to Be Moved Soon.
LOS ANGELES, January 11.—The weather has been fair throughout Southern California during the past week, with some fog in places. This has benefited the barley crop, which promises to be larger than ever before known. Good rains would now be acceptable, as the soil is quite dry on the high lands. The orange crop will not begin to move much for two or three weeks, when heavy shipments may be looked for. The quality and quantity are both ahead of any previous years. A considerable quantity of cabbage, cauliflower and celery is being shipped East in carload lots, but the demand is greater than the supply. Trees for orchard planting are in great request and nurserymen's stocks are getting low.
WALKED OFF THE BARGE.
A Longshoreman's Death in San Pedro Harbor.
LOS ANGELES, January 11.—The Coroner held an inquest at San Pedro this morning on the remains of Lewis Bennett, who was drowned there last night while unloading coal from a barge lying in the stream only a few feet from the wharf. The barge was lighted by a dim coal oil lamp, and as Bennett walked toward the wharf to talk to a man on shore he fell headfirst into the water. An alarm was given at once and a rope was thrown to him, but he went down and did not appear again. He was drawn out half an hour later. The deceased was a native of Missouri, 33 years of age. He leaves a wife and six children.
TWO VESSELS OVERDUE.
The Non-Arrival of Ships Causes Anxiety in Port Townsend.
PORT TOWNSEND (Wash.), January 11.—Anxiety is manifested in shipping circles at the non-arrival of the British ship St. Moulton, nearly 200 days from Santos, Brazil. When the vessel left Santos yellow fever and other tropical diseases were prevalent, and the supposition is that the crew was taken ill.
The German bark Brim Pasha, which sailed from Liquez October 18th for this port, has not yet arrived, although vessels sailing subsequently arrived some weeks ago.
HUMBOLDT MINERAL WATER—Only artesian water bottled in California.

A SAFE BLOWN UP.
The Bold Work of Burglars in Angeles Store.
LOS ANGELES, January 11.—The boldest explosion ever attempted in this city occurred at 2:40 this morning at the office of H. B. Brown & Co.'s furniture store, 807 to 809 Main street. The building is a brick, stories high, fronting on Main street; lower floor has a partition which runs to the center of the store. The office at the southwest corner of the store. The dimensions are 20x24.
The burglars entered one of the rear doors and they must have spent much in getting things in readiness. They bored three-fourths of an inch in the safe and in ten pounds of powder. They cut deep large rope of the elevator, bound it also safe, placed a coil of telephone wire on top of the safe, put in a fuse and extended it feet in the rear of the building, then ignited it. The explosion was sumptuous. The detonation shook the top out of their beds in the vicinity. Windows and doors were cracked and broken.
The building in which the explosion place is a wreck. The safe door was 120 feet into the street and the back wall was blown back into the rear of the store about thirty feet. The street looks as if an earthquake had occurred. The damage to the safe was \$400. Over 5000 people were seen this morning. Only \$210 00 in the safe at the time of the explosion.
FOREIGN MISSIONARY WORK
Successful Meeting of the Women's Society in Los Angeles.
LOS ANGELES, January 11.—The quarterly meeting of the Pacific branch of the Women's Foreign Missionary Society met to-day at a First Methodist Church, and was attended a large delegation of ladies from this and neighboring towns. There are in the Pacific branch seventy auxiliaries, with 1707 members. The treasurer reported \$4000 due to the branch for the coming year.
Among those who spoke were Mrs. I. from the Topeka branch, Mrs. Colburn of New England branch, Mrs. A. W. Oliver of Columbia River branch, the youngest oration of the society, and Mrs. Dyeridge representing the Northwestern branch, with the largest of all. The Pacific branch has shown a deficit of \$700, but Mrs. Boverly

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day rest bill, providing that, all laborers shall have one day's rest in seven.

A NEW ROAD LAW.

Supervisors to Be Constituted Commissioners With a Salary.

SACRAMENTO, January 11.—The Board of Supervisors at their session to-day discussed the road law at some length. They received a communication signed by all the members of the board of Nevada county, asking their cooperation in securing the amendment of the road law by the Legislature. The communication states that the Supervisors of Nevada county will, during the present session of the Legislature, ask that body to amend the present law so that each Road Commissioner, as a compensation for looking after the highways, will receive \$300 per annum for the performance of that duty. Under the now law the Supervisor will be the Road Commissioner for his district and will have personal charge of all the work on the public highways. The manager salary of that official will not begin to pay the officer for the duty imposed upon him, hence the necessity of allowing all such officers a salary of \$300 per annum in addition to what the law has provided.

TWO HARBOR COMMISSIONERS.

Cole and Kilburn to Succeed Alexander and Brown.

SACRAMENTO, January 11.—The Governor, it is creditably reported, has determined to appoint Dan T. Cole of Elvert as Harbor Commissioner, vice Alexander, and Paris Kilburn, vice General Brown. This is definite. Alexander goes out this year and Brown sixteen months later, but both must be confirmed by the sitting Senate. The reported action of the Governor on these vacancies has caused something of a sensation and has had a decidedly disturbing effect on the San Francisco politicians now here. It appears that numerous promises in this direction were made by the leaders of the non-partisan movement in San Francisco last fall, and the indications are that those breaches of faith will have a tendency to change the existing political combinations.

STATE LIBRARY TRUSTEES.

The Democratic Caucus Nominates a Board of Five.

SACRAMENTO, January 11.—A joint Democratic caucus was held to-night to nominate a board of five State Library trustees, to take seats on March 1, 1894. A ticket had been prepared bearing the names of R. T. Hammond of San Francisco, Ed Leake of Yolo, Dr. M. Ordinger of Sacramento, F. T. Baldwin of San Joaquin and W. B. Green of Colusa, but this met with some opposition, and Curtis Lindley of San Francisco was selected in the place of Hammond. It is expected that the joint ballot on trustees will be taken on Friday. The trustees will then elect a librarian to succeed Perkins.

LEADS ON THE GROUND.

The Trade Manager Arrives With Clarke and Fager.

SACRAMENTO, January 11.—Trade Manager Leads came up from San Francisco yesterday

THE PACIFIC SLOPE.

Confidence Men Beguile a Farmer.

Work to Begin on Another Railroad.

High Liquor License in Merced—An Editor Cited for Contempt.

Special Dispatches to the Chronicle.

SAN BERNARDINO, January 11.—This morning two well-dressed strangers called on Peter Filano, a well-to-do farmer living about four miles south of this city, one of them representing himself to be a Judge from Fresno and the other a representative of the Louisiana Lottery Company, and stated that they had called on him with the intention of buying his ranch. After talking awhile the lottery man drew a small box from his satchel and asked Filano to draw a number. He did so and won \$5, which was promptly paid him. The second time he drew \$3500 and the strangers informed him that he would have to come to the city and get \$2500 to deposit with them as security stating that they would pay all the interest accruing therefrom. They told him to bring the money to the house and pay it to them. Filano came to the Farmers' Exchange Bank as directed to draw the money, but Marshal Thomas got wind of it and notified the bank not to accommodate Filano although he had a large sum on deposit. The bank acted accordingly and Filano became very angry, although he was informed that the strangers were the same who had operated in San Diego county, and insisted on having the money. Filano was too mad to give a description of the swindlers, and though a search has been made for them no trace has yet been found. Filano still insists that the officers have beat him out of a great thing.

SAN DIEGO TO PHOENIX.

The New Railroad Proposition Assuming Shape.

SAN DIEGO, January 11.—The railroad extension committee decided to-day to incorporate a company for the building of the line eastward. The plan as formulated is to organize under the laws of Arizona for the construction of the entire line between San Diego and Phoe-

couvered the ladies by telling how in Chicago, in an enterprise for the help of friendless girls, from a beginning of a \$700 indebtedness the society now has property worth \$100,000 and care for 100 destitute girls.

THE BANKERS' ALLIANCE.

A Substantial Increase in Business During Last Year.

LOS ANGELES, January 11.—The annual meeting of the Bankers' Alliance of California was held in the office of the company yesterday, with a large percentage of the membership in attendance, many of them coming from the surrounding towns. The various officers reported, showing that the past year had been the most prosperous in the history of the association. The entire list of old officers was re-elected. The total assets of the company on January 1, 1893, were \$75,322.85, as against assets of \$48,300.91 on January 1, 1892, a gain during the year of \$27,021.94. There are no liabilities. The total number of policies written to date is 3817, amounting to \$8,542,500, a gain in business over 1891 of 24 per cent.

THE INTERNATIONAL SURVEY.

Arrangements Perfected for Interchanging Signals.

SANTA FE (N. M.), January 11.—The United States Coast and Geodetic Survey announces the beginning of operations about the middle of January for an interchange of longitude signals over the telegraphic circuits between Austin, Tex., and New Orleans, La.; Austin and Galveston, Austin and El Paso, between Santa Fe and El Paso and Santa Fe and Needles, Cal. A representative of the United States Coast and Geodetic Survey is expected to arrive here shortly to establish the service. It is probable that this move has some connection with the re-establishment of the international boundary line between the United States and Mexico.

PETALUMA'S POULTRY SHOW.

One of the Best Exhibitions Ever Given on the Coast.

PETALUMA, January 11.—Interest in the poultry exhibition here grows daily, and to-day a much larger crowd attended than was the case yesterday. The weather, too, was more pleasant than for a week past. It is beyond question one of the best poultry exhibitions ever held on the coast, and for variety and excellence it could hardly be excelled anywhere in the world. The poultry business of Polignac amounts into hundreds of thousands of dollars annually, and the people, therefore, appreciate the best breeds. The exhibition will continue until next Saturday night.

SOUTHERN SUNDAY-SCHOOLS.

The Next Convention to Be Held at Santa Ana.

LOS ANGELES, January 11.—The executive committee of the Southern California State Sunday-School Association met yesterday at the parlors of the Young Men's Christian Association to make arrangements for the next convention. It was decided to hold it at Santa Ana, beginning March 29th, and continuing three days. The work of the convention covers the counties of San Luis Obispo, Kern, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange and San Diego.

We Keep We Keep

OUR POOR COM
RAPHAEL'S ARE GOING
For their special



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SHOW

BEGINNING THIS
NIGHT we propose to
mind you—our \$7, \$8
press upon you that

CHAPTER 90.

An act to establish a Labor Code, thereby consolidating and revising the law relating to labor and employment relations, and to repeal acts and parts of acts specified herein.

[Approved by the Governor April 24, A. D. 1937.]

The people of the State of California do enact as follows:

GENERAL PROVISIONS.

1. This act shall be known as the Labor Code.
2. The provisions of this code, in so far as they are substantially the same as existing provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.
3. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof.
4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.
5. Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code.
6. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.
7. Whenever, by the provisions of this code, an administrative power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law.
8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required by this code, it shall be made in writing in the English language.
9. Whenever any reference is made to any portion of this code or of any other law of this State, such reference shall

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apply to all amendments and additions thereto now or hereafter made.

10. "Section" means a section of this code unless some other statute is specifically mentioned.

11. The present tense includes the past and future tenses; and the future, the present.

12. The masculine gender includes the feminine and neuter.

13. The singular number includes the plural, and the plural the singular.

14. "County" includes "city and county."

15. "Shall" is mandatory and "may" is permissive.

16. "Oath" includes affirmation.

17. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

18. "Person" means any person, association, organization, partnership, business trust, or corporation.

19. "Department" means Department of Industrial Relations.

20. "Director" means Director of Industrial Relations.

21. "Labor Commissioner" means Chief of the Division of Labor Statistics and Law Enforcement.

22. "Violation" includes a failure to comply with any requirement of the code.

23. Except in cases where a different punishment is prescribed, every offense declared by this code to be a misdemeanor is punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars, or both.

24. If any provision of this code, or the application thereof to any person or circumstances, is held invalid the remainder of the code, and the application of its provisions to other persons or circumstances, shall not be affected thereby.

DIVISION I. DEPARTMENT OF INDUSTRIAL RELATIONS.

CHAPTER 1. GENERAL POWERS AND DUTIES.

50. There is in the State government the Department of Industrial Relations.

51. The department shall be conducted under the control of an executive officer known as Director of Industrial Relations. The chairman of the Industrial Accident Commission



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is ex officio Director of Industrial Relations. The Director of Industrial Relations, during the period of his service as director, shall receive a salary of six thousand dollars per annum and shall receive no salary as a member of the Industrial Accident Commission.

52. Except as otherwise prescribed in this code, the provisions of Article II of Chapter III, Title I, Part III of the Political Code shall govern and apply to the conduct of the department.

53. Whenever in Article II, Chapter III, Title I, Part III of the Political Code, "head of the department," or similar designation occurs the same shall for the purposes of this code mean the director, except that in respect to matters which by the express provisions of this code are committed to or retained under the jurisdiction of the Division of Industrial Accidents and Safety, or the Industrial Welfare Commission such designation shall mean the Division of Industrial Accidents and Safety, or the Industrial Welfare Commission as the case may be.

54. The director shall perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the department, except as otherwise expressly provided by this code.

55. For the purpose of administration the director shall organize the department subject to the approval of the Governor, in the manner which he deems necessary properly to segregate and conduct the work of the department.

56. The work of the department shall be divided into at least five divisions known as the Division of Industrial Accidents and Safety, the Division of Immigration and Housing, the Division of Labor Statistics and Law Enforcement, the Division of Industrial Welfare, and the Division of Fire Safety.

57. Each division, except as otherwise expressly provided by law, shall be in charge of a chief, who shall be appointed by and hold office at the pleasure of the Governor and shall receive a salary fixed by the Governor which shall not exceed five thousand dollars per annum. The State Fire Marshal shall be Chief of the Division of Fire Safety and shall receive no compensation therefor. The chief of each division before entering upon the duties of his office shall execute an official bond to the State in the penal sum of ten thousand dollars, conditioned upon the faithful performance of his duties.

58. The department shall have possession and control of all records; books, papers, offices, equipment; supplies, moneys, funds, appropriations, land, and other property, real or personal, held for the benefit or use of all commissions, divisions, and offices of the department and the title to all such property and offices of the department and the title to all such property (800) 666-1917

431. If an employee or applicant is required to sign an application for employment, the employer shall file in the office of the Division of Labor Statistics and Law Enforcement a copy of the form of such application.

432. If an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument.

433. Any person violating this article is guilty of a misdemeanor.

434. The provisions of this article shall not apply to applications for employment filed with common carriers by railroad subject to the act of Congress known as the Railway Labor Act.

Article 4. Purchases.

450. No employer, or agent or officer thereof, or other person, shall compel or coerce any employee, or applicant for employment, to patronize his employer, or any other person, in the purchase of any thing of value.

451. Any person, or agent or officer thereof, who violates this article is guilty of a misdemeanor.

452. Nothing in this article shall prohibit an employer from prescribing the weight, color, quality, texture, style, form and make of uniforms required to be worn by his employees.

PART 2. WORKING HOURS.

CHAPTER 1. GENERAL.

510. Eight hours of labor constitutes a day's work, unless it is otherwise expressly stipulated by the parties to a contract.

550. As used in this chapter "day's rest" applies to all situations whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

551. Every person employed in any occupation of labor is entitled to one day's rest therefrom in seven.

552. No employer of labor shall cause his employees to work more than six days in seven.

553. Any person who violates this chapter is guilty of a misdemeanor.

554. This chapter shall not apply to any case of emergency.

CHAPTER 2. RAILROADS.

600. As used in this chapter, unless the context otherwise indicates:

(a) "Railroad" means any steam railroad, electric railroad, or railway, operated in whole or in part in this State.



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(b) "Railroad corporation" means a corporation or receiver operating a railroad.

(c) "Trainman" means a conductor, motorman, engineer, fireman, brakeman, train dispatcher, or telegraph operator, employed by or working in connection with a railroad.

601. No railroad corporation shall require or knowingly permit any trainman to be on duty for a longer period than sixteen consecutive hours.

602. Whenever any trainman has been continuously on duty for sixteen hours he shall be relieved and not required or permitted again to go on duty or perform any work for the railroad corporation until he has had at least ten consecutive hours off duty.

603. No trainman who has been on duty sixteen hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty.

604. No person who by the use of the telegraph or telephone, dispatches, reports, transmits, receives or delivers orders pertaining to or affecting train movements shall be required or permitted to be on duty for a longer period than nine hours in any twenty-four hours, in towers, offices, places and stations continuously operated night and day, nor for a longer period than thirteen hours in towers, offices, places and stations operated only during the daytime. In case of emergency, however, the persons referred to in this section may be permitted to be on duty for four additional hours in a twenty-four hour period. Such additional duty shall not be required or permitted on more than three days in any week.

605. Any railroad corporation who violates any of the provisions of this chapter is liable to the State in a penalty of not less than \$200 nor more than \$1000 for each offense. Such penalty shall be recovered and suit therefor shall be brought in the name of the State in a court of competent jurisdiction in any county into or through which said railroad may pass. Such suit may be brought either by the Attorney General of the State or under his direction by the district attorney of any county in the State into or through which said railroad passes.

606. Any officer, agent or representative of any railroad corporation who violates any of the provisions of this chapter is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or confinement in the county jail for not less than ten nor more than sixty days, or both. Such person so offending may be prosecuted under this section, either in the

general fund of the county. All property offered for sale for which no bids have been received may be destroyed by the clerk or returned to the files. Where the exhibit consists of money or currency and the same is unclaimed at the time of the auction the clerk shall not offer said money or currency for sale but shall immediately upon the conclusion of said sale deposit the same in the general fund of the county.

3. The foregoing shall not apply to any dangerous or deadly weapons, narcotic or poison drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law, used by a defendant in the commission of the crime of which he was convicted, or with which he was armed or which he had upon his person at the time of his arrest. Any such property filed as an exhibit shall be, by order of the trial court, destroyed or sold or otherwise disposed of under such conditions as provided in such order.

Repealed
by
Chapter
1266,
Statutes
of 1941.

CHAPTER 1266

An act to add Section 155.5 to the Welfare and Institutions Code, relating to the Whittier State School.

Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.

The people of the State of California do enact as follows:

SECTION 1. Section 155.5 is hereby added to the Welfare and Institutions Code, to read as follows:

155.5 The Whittier State School shall hereafter be known and designated as the Fred C. Nelles School for Boys. Where in this code the name "Whittier State School" appears it shall hereafter be understood to mean and shall be construed as Fred C. Nelles School for Boys.

1515

CHAPTER 1267

An act to add Section 556 to the Labor Code, relating to days of rest of employees.

Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.

The people of the State of California do enact as follows:

SECTION 1. Section 556 is hereby added to the Labor Code, to read as follows:

556. This chapter shall not apply to any employer or employee when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof.

When
chapter
applies
to
employees

CHAPTER 1268

An act making an appropriation to the Department of Finance for the purpose of reconditioning and framing the picture "Driving the Last Spike."

Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.

The people of the State of California do enact as follows:

SECTION 1. The sum of two thousand five hundred dollars (\$2,500) is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to the Department of Finance to be expended for reconditioning and framing the picture "Driving the Last Spike."

CHAPTER 1269

An act to amend School Code Sections 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737 and 3738, and to add Sections 3735.1 and 3735.2 to said code, all relating to physical education and related activities in the public schools.

Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.

The people of the State of California do enact as follows:

SECTION 1. School Code Section 3730 is hereby amended to read as follows:

3730. The board of education of each county, city and county, and city, whose duty it is to prescribe the course of study for the elementary schools of such county, city and county, or city, shall prescribe suitable courses of physical education in accordance with the provisions of this article for all pupils enrolled in the day elementary schools, except pupils who may be excused in accordance with the provisions of this article.

SEC. 2. School Code Section 3731 is hereby amended to read as follows:

3731. The governing board of each school district maintaining a secondary school shall prescribe suitable courses of physical education in accordance with the provisions of this article for all pupils enrolled in the day secondary schools of such district, except pupils who may be excused in accordance with the provisions of this article.

SUMMARY DIGEST
OF
STATUTES ENACTED
AND
PROPOSED CONSTITUTIONAL AMENDMENTS
SUBMITTED TO THE ELECTORS

CALIFORNIA LEGISLATURE
FIFTY-THIRD EXTRAORDINARY SESSIONS
FIFTY-FOURTH REGULAR SESSION

1940-1941



JOSEPH A. BEEK
SECRETARY OF THE SENATE

ARTHUR A. OHNIMUS
CHIEF CLERK OF THE ASSEMBLY

COMPILED BY
FRED B. WOOD
LEGISLATIVE COUNSEL

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funds of trust company in savings account insured under U. S. law. Allows trust company acting as personal representative or trustee to cause securities to be registered in name of nominee.

- A.B. 1388 (Ch. 178). SHERIDAN and POULSON. New act, re funds in county treasuries.

Permits supervisors to establish cash difference fund and appropriate moneys to it. Provides for reimbursing cash charged to persons having deficits from such fund. Provides for payment of overages to county general fund.

- A.B. 1390 (Ch. 1169). DESMOND. Amends secs. 59, 90, 125 and 172, adds sec. 151.6, Act 1404, State Civil Service Act.

Provides for payment by special fund agencies of prorata share of civil service administration to general fund instead of State Personnel Board.

Makes civil servants hold subject to reinstatement of other civil servants returning from leave of absence. Permits employee being laid off option of accepting any lower class in which he had permanent status, at maximum salary therefor, and when reinstated after layoff or demotion, provides for former salary in that class. Declares absence due to compensable injury or illness does not cause break in service.

Permits addition of names to eligible lists after one year from establishment.

- A.B. 1392 (Ch. 699). DESMOND and CAIN. Amends sec. 1030, Pol. C., re office and working hours of State employees.

Deletes requirement that State offices remain open from 8 a.m. to 4 p.m. during July and August. Permits operation with skeleton crew on Saturdays, but requires 38 hours work a week from each employee.

- A.B. 1393 (Ch. 389). DESMOND and CAIN. New act. Appropriates \$354,920 to emergency fund for allocation by Department of Finance for salary adjustments of all State employees paid from general fund.

In effect immediately.

- A.B. 1396 (Ch. 1267). COLLINS, SAM L. Adds sec. 556, Lab. C., re day of rest.

Declares provisions do not apply when hours do not exceed 30 in any week or 6 in any one day of that week.

- A.B. 1397 (Ch. 91). MALONEY. Amends secs. 1703.5, 1704, 1708, 1709 and 1713, repeals sec. 1713.8, adds secs. 1708.5, 1708.6 and 1709.2, Ins. C., re disability and life insurance agents.

Provides persons licensed to transact casualty insurance may transact disability insurance upon filing a company appointment. Deletes requirement of statement of character and experience with renewal application. Permits life agent to be appointed by more than one company.

**DIGEST OF
CALIFORNIA
LABOR LAWS**

(SECOND EDITION)

RESEARCH DEPARTMENT * CALIFORNIA STATE CHAMBER OF COMMERCE

FEBRUARY, 1944

X re wages and hours

RJN 94

(300) 665-1917

LEGISLATIVE INTENT SERVICE



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FOREWORD

THE purpose of this publication is to bring up to date the Digest of California Labor Laws first published by the State Chamber of Commerce in 1940, listing without editorial comment the various provisions of the Labor Code and other laws relating to conditions of employment in California which are of interest to employers operating in this state. This edition contains more detailed information than the earlier one on the orders of the Industrial Welfare Commission affecting women and minor employees, both because there are a number of new orders and because women are being employed at the present time by a number of firms with no previous experience in this field, to whom the information may be helpful.

This Digest does not purport to include all details of the statutes mentioned. None of the federal laws, such as the Fair Labor Standards Act or the Wagner Act, and none of the special rulings of federal administrative agencies, such as the War Labor Board or the War Manpower Commission have been included. The only exception to this policy is the inclusion of the provisions of the Fair Labor Standards Act affecting employment of minors, which are listed in Table 2. None of the California laws which are restricted in their operation to specific industries, such as railroads, mining, or construction, has been included.

The Labor Code and the acts themselves should be consulted for full information and specific problems should be discussed with the government department concerned or with private counsel. We merely present in a concise form the major labor legislation applicable to all California employers.

RESEARCH DEPARTMENT
California State Chamber of Commerce.

(800) 655-1917

RJN 96

STATE DEPARTMENT OF INDUSTRIAL RELATIONS

Most labor laws of the State are administered by the State Department of Industrial Relations, headed by a director, and containing five major divisions, namely:

1. *Division of Industrial Accidents and Safety*, which is responsible for administration of the Workmen's Compensation Act. This division has a salaried five-man commission, known as the Industrial Accident Commission, at its head, and the Chairman of this Commission is ex-officio the Director of the Department.
2. *Division of Immigration and Housing*, which has its own Commission of five members, who receive only expenses, and an executive officer known as the Commissioner of Immigration and Housing. This division assists in the education and employment of immigrants and enforces the laws governing housing furnished by employers.
3. *Division of Labor Statistics and Law Enforcement*, which is headed by the Labor Commissioner and carries responsibility for compilation of statistical data on labor employment and working conditions, and enforces all provisions of the Labor Code not expressly delegated to some other agency, as for instance, provisions relating to payment of wages, the eight-hour law for women, claims under bonds, misrepresentation as to conditions of employment, etc. The Labor Commissioner is authorized to take assignments of claims and to proceed in his own name against employers. This division also has power to compel furnishing of information, to issue subpoenas for records and witnesses, make arrests, serve process, and other similar powers related to its functions.
4. *Industrial Welfare Division*, which enforces the minimum wage law for women and minors and the industrial home work law. This Division has a chief as an executive head, and a five member Commission, receiving expenses but no salary.
5. *Division of Fire Safety*, headed by the State Fire Marshal, with general responsibility for enforcing all laws relating to fires and fire protection, and laws or ordinances relating to installation of equipment and furnishings in buildings presenting unusual fire hazards or where large numbers of people work, live, or congregate for any purpose.

Section 1. WAGES AND HOURS

California has no general statute regulating wages or hours for all employees, but two portions of the Labor Code govern wages, hours, and working conditions for women and minor employees.

Eight-Hour Law, which provides that women may not be employed more than eight hours a day, or forty-eight hours a week, in any manufacturing, mechanical, mercantile establishment or industry, laundry, cleaning, dyeing, or cleaning and dyeing establishment, hotel, public lodging house, apartment house, hospital, beauty shop, barber shop, place of amusement, restaurant, cafeteria, telegraph or telephone establishment or office, in the operation of elevators in office buildings, or by any express or transportation company. The only exceptions recognized are: graduate nurses in hospitals, and harvesting, curing, ()

fruit, fish, or vegetables during the periods when it is necessary to harvest, cure, can, or dry fish, fruit, or vegetables to prevent spoiling. Some other implied exceptions are, however, recognized by the Labor Commissioner, who enforces the statute, as for instance, government employees; certain professional people; orphan asylums, homes for aged, and fraternity houses not regularly accepting transients, which latter are not considered public lodging houses. Violation of the act is a misdemeanor, punishable by fine of \$25 to \$100 for a first offense, and \$100 to \$250, or sixty days' imprisonment, or both, for a subsequent offense.

In all occupations (whether the employees are men or women) the Labor Code provides that eight hours shall constitute a day's work, unless the parties expressly agree on some other hours.

Minimum Wage Act confers upon the five member Industrial Welfare Commission power to make orders governing minimum wages, maximum hours, and working conditions of women and minors (both boys and girls over 18 are considered adults under the minimum wage orders) in any occupation, trade or industry in which such women and minors are employed. The older orders of the Commission, most of which were adopted in 1923, were reviewed in the fall of 1942 and the spring of 1943, and a new series of ten orders have now been adopted covering the following industries and occupations, namely: manufacturing; personal service; canning and preserving; professional, technical, clerical and similar occupations; public housekeeping; laundry, dry-cleaning, and dyeing; mercantile; industries handling farm products after harvest; transportation; and amusement and recreation. Two orders of the old series (16A and 17) both affecting the motion picture industry, and Order 18 of the old series, prescribing health, welfare, and sanitary conditions for all industries and occupations where women and minors are employed, remain in force.

A basic minimum wage of \$18.00 for a 40 hour week is set in the orders covering manufacturing, personal service, professional and clerical occupations, laundry and dry-cleaning, and mercantile industries, and an hourly rate which amounts to \$18.00 for 40 hours work is contained in the canning and preserving industry order. The three orders most recently adopted, namely: industries handling farm products after harvest, transportation, and amusement and recreation, set a \$20.00 minimum wage for a 40 hour week. The Commission may revise all the orders to bring the wage up to \$20.00 for 40 hours work in all industries covered.

Most of the new orders provide a lower wage for learners in the particular occupation or industry, in consideration of the fact that the employer provides reasonable facilities for learning the occupation. The relationship between the learner and the experienced rates varies from order to order, depending upon the degree of skill involved. There is also a provision in all of the orders for employment, under permit, of handicapped persons at less than the minimum wage rate.

For those industries which do not come within the "eight hour law" (see above) the new orders all provide for the same basic 8 hour day, and 48 hour, six day week, but with provisions in some instances that women may work longer hours if overtime is paid. (See Table 1 for detailed analysis of all minimum wage orders referred to except Sanitary Order No. 18, discussed in Section 3 of this Digest.)

The basis on which wage rates are set is that the wage must be adequate to cover the necessary cost of proper living and to maintain health and wel-

fare of women and minors. The Commission sets wages, hours, and working conditions, after a public hearing, on its own motion, and consideration of the recommendations of a "wage board," composed of equal numbers of employers and employees in the industry, with an impartial chairman, who is representative of the Commission. All orders are mandatory and become effective in a specified time after publication and mailing to employers or county clerks.

Employers may be guilty of a misdemeanor either for violating an order, or for refusal to furnish necessary information, to allow access to records, for hindering the Commission in securing information, or for failure to keep required records. Employees may sue to recover the difference between the legal minimum wage and the amount paid them, in spite of any agreements to work for less than the minimum fixed in an order. There is a one year statute on prosecutions for misdemeanors for violating the orders, but three years are permitted within which the employee may sue for unpaid minimum wages.

Night work. There is no general statutory prohibition or regulation of night work for women or men. All of the new orders of the Industrial Welfare Commission, however, do contain restrictions on such work for women, and require the payment of a premium wage, the securing of a permit, or limit night employment to circumstances where suitable transportation is available at the time of starting or stopping work and where suitable facilities are available for securing hot food or drink or for heating food or drink. The hours during which such restrictions apply vary from industry to industry. (See Table 1.)

Day of rest. The Labor Code provides that all employees, whether men or women, in any occupation of labor, whether engaged by the day, week, month, or year, and whether their work is performed in the day or night time, are entitled to one day's rest in seven. Certain exemptions are recognized, namely:

1. Work performed in the necessary care of animals, crops or agricultural lands.
2. Work performed in the protection of life or property from loss or destruction.
3. Any common carrier engaged in or connected with the movement of any train.
4. When the employer and a labor organization representing his employees have made a collective bargaining agreement respecting hours of work.
5. Employment when the hours do not exceed 30 hours a week, or 6 hours in any one day.
6. Situations where in the judgment of the Labor Commissioner, hardship will result.

Days of rest may be accumulated when the nature of the employment reasonably requires seven or more consecutive days work; if in each calendar month the employee receives the equivalent of one day's rest in seven. It must be noted, however, that many of the new orders of the Industrial Welfare Commission call for one day of rest in seven for women and minors, with no exemptions, and under earlier court rulings and opinions of the Attorney General in similar cases of conflict between the statute and the orders, it is probable that the orders would be held to supersede the statute in these cases.

Rest periods and meal time.  **REGULATING EMPLOYMENT**
under the minimum wage order. Industrial Welfare Commission, and

vary slightly from industry to industry. The most common provision is for a 10 minute rest period after 2½ hours work when women are required to stand, such rest period to be allowed without wage deduction; and for a meal period of thirty minutes after 5 hours work, unless the entire work day will not exceed 6 hours. (See Table 1.) There is no legal requirement for rest or meal periods for men.

Section 2. PAYMENT OF WAGES

Time for payment of wages. For purposes of the wage payment sections of the Labor Code, "wages" are defined to include any compensation for labor, whether on a time, task, piece, commission, or any other basis, and "labor" is defined to include all work performed personally by the worker, whether under contract, subcontract, partnership, station plan or any other arrangement.

Wages are required to be paid twice during each calendar month, on days which are designated in advance by the employer as pay days. Labor performed between the first and the fifteenth of the month must be paid for before the twenty-sixth of that month, and labor performed after the fifteenth must be paid for before the tenth of the following month.

Only exceptions to this basic requirement are agricultural, viticultural, and horticultural pursuits, stock and poultry raising, and household domestic service, where employees in such employments are boarded and lodged by the employer. In these cases wages are payable once in each calendar month on a day designated in advance by the employer as pay day. Pay days may not be over thirty-one days apart and wages due up to that day must be paid.

Wages are payable in cash or by an instrument negotiable and payable in cash without discount, at an established place of business in the State, where the maker or drawer has sufficient funds or other credit arrangement to guarantee payment. Scrip, coupons, cards or other things redeemable in merchandise or in any fashion other than by cash payment may not be used to pay wages.

Notices specifying pay days and the place for payment of wages must be posted in a conspicuous position at the place of work, or where it can readily be seen by employees.

In the event of discharge, wages due up to that time are payable immediately and in the event an employee leaves his employment, are payable within seventy-two hours, or immediately if seventy-two hours' notice has been given. Discharged employees must be paid at the place of discharge and employees who quit must be paid at the office where they have been working.

Striking employees are entitled to earned wages up to the time of strike, on the regular pay day, without reduction, and are also entitled to a return of any deposits or guarantees given to the employer for faithful performance of duties.

Where there is a dispute over wages, the employer must pay all amounts which he concedes to be due, and the employee is entitled to resort to his regular remedies, such as suit, for any balance he claims.

Employers may establish a plan for central payment of wages to workers who normally work interchangeably for several such employers in the same industry. If such a plan is established, the provisions of the Labor Code requiring (100) ~~that~~ **4917** discharged employees be paid immediately at the place of discharge and that employees who quit be paid within 72 hours at the office of the em- **RJN 98**

DEERING'S
CALIFORNIA CODES

LABOR CODE
OF THE
STATE OF CALIFORNIA

ADOPTED APRIL 24, 1937

WITH AMENDMENTS UP TO AND INCLUDING
THOSE OF THE FIFTY-FIFTH SESSION
OF THE LEGISLATURE, 1943

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PART 2

Working Hours

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CHAPTER 1

General

- § 510. Day's work: Hours constituting.
 §§ 511-549. [No sections of these numbers.]
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 § 555. Sections applicable to first-class cities.
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§ 510. Day's work: Hours constituting. Eight hours of labor constitutes a day's work, unless it is otherwise expressly stipulated by the parties to a contract. [Enacted 1937.]

Based on former Pol C § 3244 (based on Stats 1887-88, ch 70, § 1, p 82), as amended by Stats 1887, ch 36, § 1, p 101.

Anno: See 14 McK Dig Labor, § 4; 15 Cal Jur 571; 31 Am Jur 1050; notes 129 ALR 1145, 102 ALR 842 (waiver of statutory right to minimum wage or benefit of regulation as to hours of labor), 90 ALR 814 (constitutionality of statutes limiting hours of labor in private industry), 10 ALR 537 (what employers are within hours of labor statutes).

§§ 511-549. [No sections of these numbers.]

§ 550. Day's rest: Application of term. As used in this chapter "day's rest" applies to all situations whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time. [Enacted 1937.]

Based on Stats 1892, ch 41, § 2, p 54.

Applicability of this section to first-class cities, see infra § 555.

§ 551. Same: Right to. Every person employed in any occupation of labor is entitled to one day's rest therefrom in seven. [Enacted 1937.]

Based on Stats 1892, ch 41, § 1, p 54.

Applicability of this section to first-class cities, see infra § 556.

§ 552. Work week: Six days. No employer of labor shall cause his employees to work more than six days in seven. [Enacted 1937.]

Based on Stats 1892, ch 41, § 1, p 54.

Applicability of this section to first-class cities, see infra § 556.

§ 553. Violation of chapter: Misdemeanor. Any person who violates this chapter is guilty of a misdemeanor. [Enacted 1937.]
Based on Stats 1893, ch 41, § 3, p 54.

§ 554. Application of chapter: Exceptions: Exemption.
[Chapter inapplicable in emergency, etc.: Collective bargaining agreement: Accumulation of days of rest.] This chapter shall not apply to any cases of emergency nor to work performed in the necessary care of animals, crops or agricultural lands, nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of any train. Nor shall the provisions of this chapter apply when the employer and a labor organization representing employees of such employer have entered into a valid collective bargaining agreement respecting the hours of work of such employees. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, providing that in each calendar month the employee receive days of rest equivalent to one day's rest in seven.

[Exemption by Chief of Division.] In addition to the exceptions herein, the Chief of the Division of Labor Statistics and Law Enforcement may, when in his judgment hardship will result, exempt any employer or employees from this chapter. [Enacted 1937; Amended by Stats 1941, ch 1264, § 1, p 3210.]

Based on Stats 1893, ch 41, § 1, p 54.

Applicability of this section to first-class cities, see *infra* § 555.

Application of chapter to 30-hour week employment, see *infra*, § 556.

§ 555. Sections applicable to first-class cities. Sections 550, 551, 552 and 554 of this chapter are applicable to cities of the first class and to the officers and employees thereof. [Added by Stats 1941, ch 1184, § 1, p 2943.]

§ 556. Application of chapter to 30-hour week employment. This chapter shall not apply to any employer or employee when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof. [Added by Stats 1941, ch 1267, § 1, p 3212.]

Application of chapter generally, see *supra* § 554.

An act to amend Sections 510, 554, 556, and 1182.1 of, to add Sections 500, 511, 512, 513, 514, 515, 516, 517, and 558 to, to repeal Section 1183.5 of, and to amend and repeal Sections 1182.2, 1182.3, 1182.9, and 1182.10 of, the Labor Code, relating to employment.

[Approved by Governor July 20, 1999. Filed with
Secretary of State July 21, 1999.]

LEGISLATIVE COUNSELS DIGEST

AB 60, Knox. Employment: overtime.

Existing law provides that 8 hours of labor constitute a day's work unless it is otherwise expressly stipulated by the parties to a contract.

This bill would delete the authority of parties to otherwise expressly stipulate the number of hours that constitute a day's work. The bill would provide that, except for an employee working pursuant to an alternative workweek schedule, as specified, hours worked in excess of 8 hours in one day, hours worked in excess of 40 hours in one workweek, and the first 8 hours worked on the 7th day of work in a given workweek are to be compensated at the rate of no less than 1 1/2 times the regular rate of pay of an employee. Under the bill, hours worked in excess of 12 hours in one day as well as hours worked in excess of 8 hours on any 7th day of a workweek are to be compensated at the rate of no less than twice the regular rate of pay of an employee. Employees working pursuant to an alternative workweek schedule under other specified provisions of this bill would be exempt from these requirements.

This bill would make an employer, or other person acting on behalf of an employer, subject to prescribed civil penalties for the violation of prescribed provisions of the Labor Code or provisions regulating hours and days of work of wage orders of the Industrial Welfare Commission. The bill would authorize the Labor Commissioner to issue citations for violations of prescribed provisions of the Labor Code regulating the payment of wages for overtime work and provisions regulating hours and days of work in wage orders of the commission and would prescribe a procedure by which the cited employer or other person may contest the proposed assessment of a civil penalty.

Under existing law, work performed in the necessary care of animals, crops, or agricultural lands is exempt from specified regulation under the above provisions, including the standard for compensation at an overtime rate for work in excess of 8 hours per day.



This bill instead would exempt persons employed in an agricultural occupation, as defined in the wage order of the Industrial Welfare Commission relating to agricultural occupations, with a prescribed exception, from specified regulation under the Labor Code.

Under an existing statute, any employer who intends to use a flexible scheduling technique, as permitted by wage order of the commission, is required to make full written disclosure to the affected employees concerning certain matters of the flexible schedule, as specified. Existing wage orders of the commission specify the rate of overtime compensation required to be paid to an employee for work in excess of 40 hours per week. Other existing provisions of those wage orders provide that no employer is in violation of those overtime provisions if the employees of the employer have adopted a voluntary written agreement that satisfies specified criteria.

This bill would repeal that statute and instead codify the authority of the employees of an employer to adopt an alternative workweek schedule that permits work by affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation when approved by at least $\frac{2}{3}$ of the affected employees in a work unit by secret ballot. The bill would provide that an employee working more than 8 hours, but not more than 12 hours, in a day pursuant to an alternative workweek schedule is required to be paid an overtime rate of compensation of no less than $1\frac{1}{2}$ times the regular rate of pay of the employee for work in excess of the regular hours established by that schedule and for work in a workweek in excess of 40 hours per week and an overtime rate of compensation of no less than double the regular rate of pay of the employee for any work in excess of 12 hours per day and work in excess of 8 hours on days worked beyond the regularly scheduled workweek under the agreement.

The bill would declare null and void certain alternative workweek schedules adopted pursuant to specified wage orders of the Industrial Welfare Commission.

Existing wage orders of the commission prohibit an employer from employing an employee for a work period of more than 5 hours per day without providing the employee with a meal period of not less than 30 minutes, with the exception that if the total work period per day of the employee is no more than 6 hours, the meal period may be waived by mutual consent of both the employer and employee.

This bill would codify that prohibition and also would further prohibit an employer from employing an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, with a specified exception.

The bill would provide that, if an employer approves the written request of an employee to make up work time that is lost as a result of a personal obligation of the employee, the hours of that makeup

work time, if performed in the same workweek in which the time was lost, may not be counted towards computing the total number of hours worked in a day for purposes of specified overtime requirements, except for hours in excess of 11 hours of work in one day or 40 hours in one workweek. The bill would require an employee to provide a signed written request for each occasion he or she makes that request. The bill would prohibit an employer from encouraging or otherwise soliciting an employee to make that request.

Existing wage orders of the commission provide that no person employed in an administrative, executive, or professional capacity is required by those wage orders to be compensated for overtime work. Those existing wage orders define an employee as employed in an administrative, executive, or professional capacity if, among other things, the employee is engaged in work that is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment and the employee receives compensation of not less than a specified amount per month.

This bill would authorize the Industrial Welfare Commission to establish exemptions, with specified limitations, from the requirement that premium pay be paid for overtime work for executive, administrative, and professional employees, provided that the employee is primarily engaged in the duties which meet the test of the exemption and the employee earns a monthly salary equivalent to no less than 2 times the state minimum wage for full-time employment. The bill would require the commission to conduct a review of the duties that meet the test of this exemption and authorize the commission to hold a public hearing, to be conducted no later than July 1, 2000, to adopt or modify regulations relating to duties that meet the test of the exemption without convening a wage board.

The bill would authorize the Industrial Welfare Commission to review, retain, or eliminate exemptions from the hours requirements that were contained in a valid wage order in effect in 1997 and would authorize the commission to establish additional exemptions therefrom for the health or welfare of employees in any occupation, trade, or industry until January 1, 2002.

Under existing law, employment in which the hours of work do not exceed 30 hours in a week or 6 hours in a day are exempt from the general provisions of the Labor Code relating to the hours and days that constitute a workday and a workweek, and related provisions.

This bill would clarify that the exemption applies to the requirements for a day's rest within a period of 7 days of labor and the prohibition against requiring an employee to work more than 6 days in 7.

Existing provisions of the Labor Code contain specific workday and workweek requirements relating to employees of ski establishments, employees of licensed hospitals, and stable employees engaged in the



raising, feeding, or management of racehorses. Existing law also exempts employers engaged in specified commercial fishing enterprises from the minimum wage and maximum hour provisions of existing law.

This bill would repeal those provisions as of July 1, 2000.

This bill would require the Industrial Welfare Commission, prior to July 1, 2000, to conduct a review of wages, hours, and working conditions in the ski industry, commercial fishing industry, and health care industry, and for licensed pharmacists, outside salespersons, and stable employees in the horse racing industry. The bill would authorize the commission, based upon that review, to convene a public hearing to adopt or modify regulations at that hearing pertaining to those industries without convening wage boards. The bill would provide that the hearing be concluded by July 1, 2000.

The bill also would require the Industrial Welfare Commission, at a public hearing, to adopt wage, hours, and working conditions orders consistent with this measure without convening wage boards, which orders shall be final and conclusive for all purposes. Additionally, the commission would be authorized to adopt regulations consistent with this measure necessary to provide assurances of fairness regarding the conduct of employee workweek elections, employee disclosures, employee requests to the Labor Commissioner to review designations of work units, and processing of employee petitions as provided for in this measure or under any wage order of the commission.

Additionally, the bill would authorize the Industrial Welfare Commission to adopt or amend orders relating to break periods, meal periods, and days of rest.

Since violation of these provisions would, under existing law, constitute a misdemeanor, the bill would impose a state-mandated local program.

The bill also would make other technical and conforming changes and would declare null and void specified wage orders of the Industrial Welfare Commission relating to these provisions and temporarily reinstate specified prior orders of the commission.

This bill would further require the Industrial Welfare Commission to study the extent to which alternative workweek schedules are used in California with a cost-benefit analysis and to report the results of the study and recommendations to the Legislature by July 1, 2001.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the "Eight-Hour-Day Restoration and Workplace Flexibility Act of 1999."

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) The eight-hour workday is the mainstay of protection for California's working people, and has been for over 80 years.

(b) In 1911, California enacted the first daily overtime law setting the eight-hour daily standard, long before the federal government enacted overtime protections for workers.

(c) Ending daily overtime would result in a substantial pay cut for California workers who currently receive daily overtime.

(d) Numerous studies have linked long work hours to increased rates of accident and injury.

(e) Family life suffers when either or both parents are kept away from home for an extended period of time on a daily basis.

(f) In 1998 the Industrial Welfare Commission issued wage orders that deleted the requirement to pay premium wages after eight hours of work a day in five wage orders regulating eight million workers.

(g) Therefore, the Legislature affirms the importance of the eight-hour workday, declares that it should be protected, and reaffirms the state's unwavering commitment to upholding the eight-hour workday as a fundamental protection for working people.

SEC. 3. Section 500 is added to the Labor Code, to read:

500. For purposes of this chapter, the following terms shall have the following meanings:

(a) "Workday" and "day" mean any consecutive 24-hour period commencing at the same time each calendar day.

(b) "Workweek" and "week" mean any seven consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven consecutive 24-hour periods.

(c) "Alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight hours in a 24-hour period.

SEC. 4. Section 510 of the Labor Code is amended to read:

510. (a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any

seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work. The requirements of this section do not apply to the payment of overtime compensation to an employee working pursuant to any of the following:

- (1) An alternative workweek schedule adopted pursuant to Section 511.
- (2) An alternative workweek schedule adopted pursuant to a collective bargaining agreement pursuant to Section 514.
- (3) An alternative workweek schedule to which this chapter is inapplicable pursuant to Section 554.
- (h) Time spent commuting to and from the first place at which an employee's presence is required by the employer shall not be considered to be a part of a day's work, when the employee commutes in a vehicle that is owned, leased, or subsidized by the employer and is used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code.

(c) This section does not affect, change, or limit an employer's liability under the workers' compensation law.

SEC. 5. Section 511 is added to the Labor Code, to read:

511. (a) Upon the proposal of an employer, the employees of an employer may adopt a regularly scheduled alternative workweek that authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation pursuant to this section. A proposal to adopt an alternative workweek schedule shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees in a work unit. The regularly scheduled alternative workweek proposed by an employer for adoption by employees may be a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose.

(b) An affected employee working longer than eight hours but not more than 12 hours in a day pursuant to an alternative workweek schedule adopted pursuant to this section shall be paid an overtime rate of compensation of no less than one and one-half times the regular rate of pay of the employee for any work in excess of the regularly scheduled hours established by the alternative workweek agreement and for any work in excess of 40 hours per week. An overtime rate of compensation of no less than double the regular rate of pay of the employee shall be paid for any work in excess of 12 hours per day and for any work in excess of eight hours on those days worked beyond the regularly scheduled workdays established by the alternative workweek agreement. Nothing in this section requires an

employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

(c) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(d) An employer shall make a reasonable effort to find a work schedule not to exceed eight hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative schedule hours established as the result of that election. An employer shall be permitted to provide a work schedule not to exceed eight hours in a workday to accommodate any employee who was hired after the date of the election and who is unable to work the alternative schedule established as the result of that election. An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(e) The results of any election conducted pursuant to this section shall be reported by an employer to the Division of Labor Statistics and Research within 30 days after the results are final.

(f) Any type of alternative workweek schedule that is authorized by this code and that was in effect on January 1, 2000, may be repealed by the affected employees pursuant to this section. Any alternative workweek schedule that was adopted pursuant to Wage Order Numbers 1, 4, 5, 7, or 9 of the Industrial Welfare Commission is null and void, except for an alternative workweek providing for a regular schedule of no more than 10 hours' work in a workday that was adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to wage orders of the Industrial Welfare Commission in effect prior to 1998. This subdivision does not apply to exemptions authorized pursuant to Section 515.

(g) Notwithstanding subdivision (f), an alternative workweek schedule in the health care industry adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to Wage Orders 4 and 5 in effect prior to 1998 that provided for workdays exceeding 10 hours but not exceeding 12 hours in a day without the payment of overtime compensation shall be valid until July 1, 2000. An employer in the health care industry shall make a reasonable effort to accommodate any employee in the health care industry who is unable to work the alternative schedule established as the result of a valid election held in accordance with provisions of Wage Orders 4 or 5 that were in effect prior to 1998.

(h) Notwithstanding subdivision (f), if an employee is voluntarily working an alternative workweek schedule providing for a regular



work schedule of not more than 10 hours work in a workday as of July 1, 1999, an employee may continue to work that alternative workweek schedule without the entitlement of the payment of daily overtime compensation for the hours provided in that schedule if the employer approves a written request of the employee to work that schedule.

SEC. 6. Section 512 is added to the Labor Code, to read:

512. An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

SEC. 7. Section 513 is added to the Labor Code, to read:

513. 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 makeup work time, if performed in the same workweek in which the work time was lost, may not be counted towards computing the total number of hours worked in a day for purposes of the overtime requirements specified in Section 510 or 511, except for hours in excess of 11 hours of work in one day or 40 hours in one workweek. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this section. An 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 week pursuant to this section.

SEC. 8. Section 514 is added to the Labor Code, to read:

514. This chapter does not apply to an 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 if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

SEC. 9. Section 515 is added to the Labor Code, to read:

515. (a) The Industrial Welfare Commission may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, provided that the

employee is primarily engaged in the duties which meet the test of the exemption and the employee earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. The commission shall conduct a review of the duties which meet the test of the exemption. The commission may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to duties which meet the test of the exemption without convening a wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(b) (1) The commission may establish additional exemptions to hours of work requirements under this division where it finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry. This paragraph shall become inoperative on January 1, 2003.

(2) Except as otherwise provided in this section and in subdivision (g) of Section 511, nothing in this section requires the commission to alter any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997. Except as otherwise provided in this division, the commission may review, retain, or eliminate any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997.

(c) For the purposes of this section "full-time employment" means employment in which an employee is employed for 40 hours per week.

(d) For the purpose of computing the overtime rate of compensation required to be paid to a nonexempt full-time salaried employee, the employee's regular hourly rate shall be 1/40th of the employee's weekly salary.

(e) For the purposes of this section, "primarily" means more than one-half of the employee's work time.

(f) In addition to the requirements of subdivision (a), registered nurses employed to engage in the practice of nursing shall not be exempted from coverage under any part of the orders of the Industrial Welfare Commission, unless they individually meet the criteria for exemptions established for executive or administrative employees.

SEC. 10. Section 516 is added to the Labor Code, to read:

516. Notwithstanding any other provision of law, the Industrial Welfare Commission may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

SEC. 11. Section 517 is added to the Labor Code to read:

517. (a) The Industrial Welfare Commission shall, at a public hearing to be concluded by July 1, 2000, adopt wage, hours, and working conditions orders consistent with this chapter without



convening wage boards, which orders shall be final and conclusive for all purposes. These orders shall include regulations necessary to provide assurances of fairness regarding the conduct of employee workweek elections, procedures for employees to petition for and obtain elections to repeal alternative workweek schedules, procedures for implementation of those schedules, conditions under which an adopted alternative workweek schedule can be repealed by the employer, employee disclosures, designations of work, and processing of workweek election petitions pursuant to Parts 2 and 4 of this division and in any wage order of the commission and such other regulations as may be needed to fulfill the duties of the commission pursuant to this part.

(b) Prior to July 1, 2000, the Industrial Welfare Commission shall conduct a review of wages, hours, and working conditions in the ski industry, commercial fishing industry, and health care industry, and for stable employees in the horseracing industry. Notwithstanding subdivision (a) and Sections 510 and 511, and consistent with its duty to protect the health, safety, and welfare of workers pursuant to Section 1173, the commission may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to the industries herein, without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(c) Notwithstanding subdivision (a) of Section 515, prior to July 1, 2000, the commission shall conduct a review of wages, hours, and working conditions of licensed pharmacists. The commission may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to licensed pharmacists without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(d) Notwithstanding sections 1171 and subdivision (a) of Section 515, the Industrial Welfare Commission shall conduct a review of wages, hours, and working conditions of outside salespersons. The commission may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to outside salespersons without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(e) Nothing in this section is intended to restrict the Industrial Welfare Commission in its continuing duties pursuant to Section 1173.

(f) No action taken by the Industrial Welfare Commission pursuant to this section is subject to the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(g) All wage orders and other regulations issued or adopted pursuant to this section shall be published in accordance with Section 1182.1.

SEC. 12. Section 554 of the Labor Code is amended to read:

554. Sections 551 and 552 shall not apply to any cases of emergency nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of trains. This chapter, with the exception of Section 558, shall not apply to any person employed in an agricultural occupation, as defined in Order No. 14-80 (operative January 1, 1998) of the Industrial Welfare Commission, nor shall the provisions of this chapter apply when the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pursuant to Section 514. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, providing that in each calendar month the employee receive days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this chapter relating to collective bargaining agreements, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

In addition to the exceptions herein, the Chief of the Division of Labor Standards Enforcement may, when in his judgment hardship will result, exempt any employer or employees from the provisions of Sections 551 and 552.

SEC. 13. Section 556 of the Labor Code is amended to read:
556. Sections 551 and 552 shall not apply to any employer or employee when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof.

SEC. 14. Section 558 is added to the Labor Code, to read:
558. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.



(3) Wages recovered pursuant to this section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

SEC. 15. Section 1182.1 of the Labor Code is amended to read:

1182.1. Any action taken by the commission pursuant to Sections 517 and 1182 shall be published in at least one newspaper in each of the Cities of Los Angeles, Sacramento, Oakland, San Jose, Fresno, San Diego, and San Francisco. A summary of the action taken and notice of where the complete text of the new or amended order may be obtained may be published in lieu of the complete text when the commission determines such summary and notice will adequately inform the public. The statement as to the basis of the order need not be published.

SEC. 16. Section 1182.2 of the Labor Code is amended to read:

1182.2. (a) The Legislature finds that the hours and days of work of employees employed in California in the seasonal ski industry are subject to fluctuations which are beyond the control of their employers. The Legislature further finds that the economic interests of these employees are best served when minimum limitations are placed upon their hours and days of work. Accordingly, no employer who operates a ski establishment shall be in violation of any provision of this code or any applicable order of the Industrial Welfare Commission by instituting a regularly scheduled workweek of not more than 56 hours, provided that any employee shall be compensated at a rate of not less than one and one-half times the employee's regular rate of pay for any hours worked in excess of 56 hours in any workweek.

(b) As used in this section, "ski establishment" means an integrated, geographically limited recreational area comprised of the basic skiing facilities, together with all operations and facilities related thereto.

(c) This section shall apply only during any month of the year when Alpine or Nordic skiing activities, including snowmaking and grooming activities, are actually being conducted by the ski establishment.

This section shall remain in effect only until July 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2000, deletes or extends that date.

SEC. 17. Section 1182.3 of the Labor Code is amended to read:

1182.3. No employee licensed pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, or is employed on a commercial passenger fishing boat licensed pursuant to Article 5 (commencing with Section 7920) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, shall be subject to a minimum wage or maximum hour order of the commission.

This section shall remain in effect only until July 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2000, deletes or extends that date.

SEC. 18. Section 1182.9 of the Labor Code is amended to read:

1182.9. An employer engaged in the operation of a licensed hospital or providing personnel for the operation of a licensed hospital who institutes, pursuant to an applicable order of the commission, a regularly scheduled workweek that includes no more than three working days of no more than 12 hours each within any workweek, shall make a reasonable effort to find an alternative work assignment for any employee who participated in the vote which authorized the schedule and is unable to work 12-hour workday schedules. An employer shall not be required to offer an alternative work assignment to an employee, if an alternative work assignment is not available or if the employee was hired after the adoption of the 12-hour, 3-day workweek schedule.

This section shall remain in effect only until July 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2000, deletes or extends that date.

SEC. 19. Section 1182.10 of the Labor Code is amended to read:

1182.10. (a) Notwithstanding any other provision of this chapter, or any order of the commission, the employment of stable employees engaged in the raising, feeding, and management of racehorses by a trainer shall be subject to the same standards governing wages, hours, and conditions of labor as those established by the commission for employees in agricultural occupations engaged in the raising, feeding, and management of other livestock, except as set forth in subdivision (b).

(b) Notwithstanding the provisions of any order of the commission permitting employees employed in agricultural occupations to work 10 hours on each of six workdays in a seven-day workweek without the payment of overtime compensation, stable employees shall not be employed more than 10 hours in any workday, nor more than 56 hours during seven days in any workweek. However, stable employees may be employed in excess of 10 hours in any workday, and in excess of 56 hours during seven days in one



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workweek, if these employees are compensated at a rate of not less than one and one-half times the employees' regular rate of pay for all hours worked in excess of 10 hours in any workday, or 56 hours in any workweek.

(c) For purposes of this section:

(1) "Stable employees" includes, but is not limited to, grooms, hutwalkers, exercise workers, and any other employees engaged in the raising, feeding, or management of racehorses, employed by a trainer at a racetrack or other nonfarm training facility.

(2) "Trainer" has the same definition as in Section 24001 of the Food and Agricultural Code.

(3) "Workday" and "workweek" have the same definition as in the order of the commission applicable to employees employed in agricultural occupations.

(4) "Regular rate of pay" includes all wages paid by the trainer to the stable employee for a workweek of not more than 56 hours, but excludes those amounts excluded from regular pay by Section 7(c) of the Fair Labor Standards Act (29 U.S.C. Sec. 207(e)), and excludes the payment of the stable employee's share, if any, of the purse of a race, whether that share is paid by the owner of the racehorse or by the trainer.

This section shall remain in effect only until July 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2000, deletes or extends that date.

SEC. 20. Section 1183.5 of the Labor Code is repealed.

SEC. 21. Wage Orders number 1-98, 4-98, 5-98, 7-98, and 9-98 adopted by the Industrial Welfare Commission are null and void, and Wage Orders 1-89, 4-89 as amended in 1993, 5-89 as amended in 1993, 7-80, and 9-90 are reinstated until the effective date of wage orders issued pursuant to Section 517.

SEC. 22. The Industrial Welfare Commission shall study the extent to which alternative workweek schedules are used in California and the costs and benefits to employees and employers of those schedules, and report the results of the study and recommendations to the Legislature not later than July 1, 2001.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

325 MARKET STREET, SAN FRANCISCO

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of the authority vested in it by the Statutes of California, 1913, Chapter 324, and amendments thereto, and after public hearing duly had in the city and county of San Francisco, on Friday, June 15, 1917.

THE INDUSTRIAL WELFARE COMMISSION OF THE STATE OF CALIFORNIA does hereby order that:

1. No person, firm or corporation shall employ, or suffer or permit an experienced woman to be employed in the mercantile industry in California at a rate of wages less than \$10.00 per week (\$43.33 per month).

2. The wages of learners may be less than the minimum rate prescribed for experienced workers, provided:

(a) That learners entering employment under 18 years of age be paid an initial weekly wage of not less than \$6.00 per week (\$26.00 per month) for the first six months of employment; for the second six months not less than \$6.50 per week (\$28.17 per month); for the third six months, not less than \$7.00 per week (\$30.33 per month); for the fourth six months not less than \$7.50 per week (\$32.50 per month), and for the fifth six months, or when 18 years of age, not less than \$8.00 per week (\$34.67 per month).

(b) That learners entering employment 18 years of age and under 20 years of age be paid an initial weekly wage of not less than \$8.00 per week (\$34.67 per month) for the first six months of employment; not less than \$8.50 per week (\$36.83 per month) for the second six months; not less than \$9.00 per week (\$39.00 per month) for the third six months; not less than \$9.50 per week (\$41.17 per month) for the fourth six months, and thereafter shall be deemed experienced workers and shall be paid not less than the minimum rate for experienced workers.

(c) That learners entering employment 20 years of age or over be paid an initial weekly wage of not less than \$9.00 per week (\$39.00 per month) for the first six months of employment; for the second six months not less than \$8.50 per week (\$36.83 per month); for the third six months not less than \$9.00 per week (\$39.00 per month), and thereafter shall be deemed experienced workers and shall be paid not less than the minimum rate for experienced workers.

3. The total number of adult and minor learners in any establishment shall not exceed 25 per cent of the total number of women and minors employed. In computing the total number of women and minors, "temporary" and "special" workers shall not be included.

4. Where payment of wages is made upon a commission or bonus system, wages shall be computed weekly and the time wage plus the bonus or commission shall be not less than the minimum rate for the wage group in which the worker belongs.

5. All adult "special" women employees shall be paid not less than \$1.67 per day. All minor "special" employees shall be paid not less than \$1.25 per day.

6. All "part-time" workers, except "waitresses, shall be paid not less than the minimum rate for an eight-hour day.

(a) Students attending accredited vocational, continuation or co-operative schools may be employed at part-time work on special permits from the Commission, and at special rates to be determined by the Commission.

7. No person, firm or corporation shall employ or suffer or permit a woman or minor to work in the mercantile industry more than eight hours in any one day or more than forty-eight hours in any week.

8. All women and minors employed in the mercantile industry must be noted and paid in accordance with their experience and age as in the above-mentioned regulations.

9. A license may be issued by the Commission to a woman physically disabled by age or otherwise authorizing the employment of such licensee for a wage less than the legal minimum wage; and the Commission shall fix a special minimum for such a woman.

10. The Commission shall exercise exclusive jurisdiction over all questions arising as to the administration and interpretation of these orders.

A "temporary" worker is a person employed during the holidays for a period not to exceed four (4) weeks.

A "special" worker is one who works less than six (6) days a week.

A "part-time" worker is one who works less than eight (8) hours per day.

A "learner" is a woman or minor who

(1) is employed in learning the mercantile industry by an employer who provides the learner with reasonable facilities for such learning; and

(2) has received a certificate or has been registered as a learner by the Commission;

Provided that an employer may employ a learner for a period not to exceed one week pending application to the Commission for a certificate and registration of such learner.

THIS ORDER SHALL BECOME EFFECTIVE SIXTY (60) DAYS FROM THE DATE HEREOF.

Dated at San Francisco, July 6, 1917.

ATTEST: KATHERINE PHILIPS EDSON,
Executive Officer.

INDUSTRIAL WELFARE COMMISSION,
STATE OF CALIFORNIA,

FRANK J. MURASKY, Chairman;
KATHERINE PHILIPS EDSON,
A. B. C. DOERMANN,
WALTER G. MATHEWSON,
ALEXANDER GOLDSTEIN.

INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

325 MARKET STREET, SAN FRANCISCO
STATUTES OF CALIFORNIA, 1913, CHAPTER 324.

"Every employer or other person who, either individually or as an officer, agent or employee of a corporation, or other persons, violates or refuses or neglects to comply with the provisions of this act, or any orders or rulings of this commission, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days or by both such fine and imprisonment."

"For the purpose of this act, a minor is defined to be a person of either sex under the age of eighteen years."

"Special minimum rates for "part-time" work waitresses will be determined when the orders are made in the hotel and restaurant industry.

NOTE.—ANY FIRM WISHING TO EMPLOY EITHER MINOR OR ADULT LEARNERS MUST SEND TO THE INDUSTRIAL WELFARE COMMISSION, WHERE THEY WILL RECEIVE BLANK APPLICATIONS FOR A LICENSE FOR LEARNERS.

PLEASE POST IN CONSPICUOUS PLACE

INDUSTRIAL WELFARE COMMISSION

STATE OF CALIFORNIA

525 Market Street, San Francisco

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of the authority vested in it by the Statutes of California, 1913, Chapter 324, and amendments thereto, and after public hearing duly had in the City and County of San Francisco on Friday, December 6, 1918,

THE INDUSTRIAL WELFARE COMMISSION OF THE STATE OF CALIFORNIA does hereby order that:

EXPERIENCED WORKER

1. No person, firm or corporation shall employ or suffer or permit an experienced woman or minor to be employed in the mercantile industry in California at a rate of wages less than \$13.50 per week (\$58.50 per month), except as otherwise provided in Section 9 of this Order.

LEARNERS

2. The wages of learners may be less than the minimum rate prescribed for experienced workers provided: (a) (MINOR LEARNERS). That learners, male or female, entering employment under eighteen years of age, be paid not less than the following scale:

SCHEDULE OF APPRENTICESHIP FOR MINORS

BEGINNING AGE	WAGE FIRST SIX MONTHS	WAGE SECOND SIX MONTHS	WAGE THIRD SIX MONTHS	WAGE FOURTH SIX MONTHS	WAGE FIFTH SIX MONTHS	WAGE SIXTH SIX MONTHS	THENCEFORTH NOT LESS THAN	LENGTH OF APPRENTICESHIP
14 years	\$5.00 a week \$21.67 a month	\$6.50 a week \$26.83 a month	\$8.00 a week \$32.00 a month	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	3 years
15 years	\$5.00 a week \$21.67 a month	\$6.50 a week \$26.83 a month	\$8.00 a week \$32.00 a month	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	3 years
16 years	\$5.00 a week \$21.67 a month	\$6.50 a week \$26.83 a month	\$8.00 a week \$32.00 a month	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	3 years
17 years	\$5.00 a week \$21.67 a month	\$6.50 a week \$26.83 a month	\$8.00 a week \$32.00 a month	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	3 years

*Note.—When a minor girl who starts at the age of 17 years attains the age of 18 years, she shall be paid not less than the beginning wage for adult learners.

(b) (ADULT LEARNERS BEGINNING EIGHTEEN YEARS OF AGE AND UNDER TWENTY YEARS OF AGE.) That female learners entering employment 18 years of age and under 20 years of age, be paid not less than the following scale:

SCHEDULE OF APPRENTICESHIP FOR ADULTS BEGINNING OVER EIGHTEEN AND UNDER TWENTY YEARS OF AGE

BEGINNING AGE	WAGE FIRST SIX MONTHS	WAGE SECOND SIX MONTHS	WAGE THIRD SIX MONTHS	WAGE FOURTH SIX MONTHS	THENCEFORTH NOT LESS THAN	LENGTH OF APPRENTICESHIP
18 years	\$10.00 a week \$40.00 a month	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	2 years
19 years	\$10.00 a week \$40.00 a month	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	2 years

(c) (ADULT LEARNERS BEGINNING TWENTY YEARS OF AGE AND OVER.) That female learners entering employment 20 years of age and over be paid not less than the following scale:

SCHEDULE OF APPRENTICESHIP FOR ADULTS BEGINNING TWENTY YEARS OF AGE AND OVER

BEGINNING AGE	WAGE FIRST SIX MONTHS	WAGE SECOND SIX MONTHS	WAGE THIRD SIX MONTHS	THENCEFORTH NOT LESS THAN	LENGTH OF APPRENTICESHIP
20 years and over	\$10.00 a week \$40.00 a month	\$11.00 a week \$44.00 a month	\$12.00 a week \$48.00 a month	\$13.50 a week \$54.00 a month	1½ years

(d) That all learners shall be registered with the Commission. Application for the registration of learners shall be made by the employer not later than two weeks from the date of starting employment. Pending issuance of certificates of registration, the learner shall be paid not less than the minimum rate for the wage group in which she belongs.

(e) The total number of female learners in any establishment shall not exceed 33 1/3% of the total number of females employed, and the total number of male learners shall not exceed 33 1/3% of the total number of males employed. In computing the total number of employees, special and part-time workers shall not be included.

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PART-TIME WORKERS

3. (a) All adult part-time workers and experienced minor part-time workers, except waitresses,* shall be paid not less than \$.35 per hour.
- (b) All inexperienced minor male and female part-time workers, except waitresses, shall be paid not less than \$.25 per hour.
- (c) All adult and minor part-time workers shall be registered with the Commission. Application for the registration of part-time workers must be made by the employer, and pending the issuance of certificates, such workers must be paid in accordance with the rates specified in sections 3 (a) and 3 (b).
- (d) The total number of adult and minor female part-time workers in any establishment shall not exceed 5% of the total number of females employed.

SPECIAL WORKERS

4. (a) (ADULT SPECIAL WORKERS.) All adult special workers shall be paid not less than \$2.25 per day.
- (b) (MINOR EXPERIENCED SPECIAL WORKERS.) All minor experienced special workers shall be paid not less than \$2.25 per day.
- (c) (MINOR INEXPERIENCED SPECIAL WORKERS.) All minor inexperienced special workers shall be paid not less than \$1.50 per day.

5. All women and minors now employed in the mercantile industry must be rated and paid in accordance with their periods of employment, as specified in Sections 1 and 2.

6. Where payment of wages is made upon a commission, bonus or piece-rate basis, the earnings shall not be less than the minimum time rate for the wage group in which the worker belongs.

7. Every person, firm or corporation employing women or minors in the mercantile industry shall keep a record of the names and addresses, the hours worked and the amounts earned by such women and minors. Such records shall be kept in a form and manner approved by the Industrial Welfare Commission. Minor employees must be excluded "Mines" on the pay roll.

8. No person, firm or corporation shall employ, or suffer or permit any woman or minor to work in any mercantile establishment more than eight (8) hours in any one day, or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week.

INDIAN WORKERS

9. A permit may be issued by the Commission to a woman physically disabled by age or otherwise, authorizing the employment of such licensee for a wage less than the legal minimum wage; and the Commission shall fix a special minimum for such a woman.

10. Every person, firm or corporation employing women or minors in the mercantile industry shall furnish to the Commission, at its request, any and all reports or information which the Commission may require to carry out the purposes of the act creating the Commission; such reports and information to be verified by the oath of the person, member of the firm, or the president, secretary or manager of the corporation furnishing the same, if and when so requested by the Commission.

Every person, firm or corporation shall allow any member of the Commission, or any of its duly authorized representatives, free access to the place of business of such person, firm or corporation, for the purpose of making inspection of, or excerpts from, all books, reports, contracts, pay rolls, documents or papers of such person, firm or corporation relating to the employment of labor and payment therefor by such person, firm, or corporation; or for the purpose of making any investigation authorized by the act creating the Commission.

11. Every person, firm or corporation employing women or minors in the mercantile industry shall post a copy of this order in a conspicuous place in the general work room and in the women's dressing rooms.

12. The Commission shall exercise exclusive jurisdiction over the questions arising as to the administration and interpretation of this order.

DEFINITIONS

A learner is a woman or minor to whom the Industrial Welfare Commission issues a permit to work for a person, firm or corporation for less than the legal minimum wage in consideration of such person being provided by his or her employer with reasonable facilities for learning the mercantile industry. Learners' permits will be withheld by the Commission where there is evidence of attempted evasion of the law by firms which make a practice of dismissing learners when they reach their promotional periods.

A special worker is one who works less than 6 days a week.

A part-time worker is one who is employed for less than eight hours in one day.

Students attending accredited vocational, continuation or cooperative schools may be employed at part-time work on special permits from the Commission, and at rates to be determined by the Commission.

For the purpose of this Act, a minor is defined to be a person of either sex under the age of eighteen years.

THIS ORDER SHALL BECOME EFFECTIVE SIXTY (60) DAYS FROM THE DATE HEREOF.

Dated at San Francisco, California, this 22d of April, 1919.

Order No. 5 of the Industrial Welfare Commission, dated July 6, 1917, is hereby rescinded as and of the date when this Order becomes effective:

INDUSTRIAL WELFARE COMMISSION, STATE OF CALIFORNIA

FRANK J. MURASKY, Chairman
KATHERINE PHILIPS EDSON
A. B. C. DOHRMANN
ALEXANDER GOLDSTEIN
WALTER G. MATHEWSON

ATTEST: KATHERINE PHILIPS EDSON, Executive Officer.

NOTICE

NOTHING IN THIS ORDER PREVENTS EMPLOYERS FROM PAYING MORE THAN THE RATES FIXED BY THE COMMISSION AS THE MINIMUM OR LOWEST RATES. THIS ORDER APPLIES TO ALL WOMEN AND MINORS IN ANY MERCANTILE INDUSTRY.

*Special minimum rates for "part-time" work waitresses will be determined when the orders are made in the hotel and restaurant industry.

The Industrial Welfare Commission expects to review its orders annually.

STATUTES OF CALIFORNIA, 1913, CHAPTER 324

"Every employer or other person who, either individually or as an officer, agent or employee of a corporation, or other persons, violates or refuses or neglects to comply with the provisions of this act, or any orders or rulings of this Commission, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment."

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LEGISLATIVE INTENT SERVICE (800) 666-1917

INDUSTRIAL WELFARE COMMISSION

STATE OF CALIFORNIA

328 FLOOD BUILDING, 870 MARKET STREET

SAN FRANCISCO

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of the authority vested in it by the Statutes of California, 1913, Chapter 324 and amendments thereto, and after public hearing duly had on motion of the Commission at the City Hall in the City and County of San Francisco, on Wednesday, March 24, 1920, notice of said hearing having been duly given in the manner provided by law, and the Industrial Welfare Commission thereafter finding and determining that the least wage adequate to supply to women employed in industry the necessary cost of proper living is \$15.00 a week,

THE INDUSTRIAL WELFARE COMMISSION OF THE STATE OF CALIFORNIA does hereby order that:

EXPERIENCED WORKERS

Minimum (or least) rate for experienced women and experienced minors

1. No person, firm or corporation shall employ, or suffer or permit an experienced woman or experienced minor to be employed in the mercantile industry in California (except as otherwise provided in Section 13 of this Order) at a rate of wages less than \$15.00 a week (\$3.75 a month).

Experience defined, Adult women

An adult woman is deemed experienced when she has been employed one year in the mercantile industry.

Experience defined, Minors

A minor is deemed experienced when he or she has been employed one year in the mercantile industry.

LEARNERS

Conditions of apprenticeship

2. No person, firm or corporation shall employ, or suffer or permit learners to be employed in the mercantile industry for less than the legal minimum wage of \$15.00 a week, except at the rates and under the conditions hereinafter set forth:

Number of Learners Limited

(a) No person, firm or corporation shall suffer or permit the employment of over 33 1/3 per cent of the total number of females (exclusive of the office force, the military war room force, and the female workers regulated by Order No. 12) as learners, at less than the legal minimum wage of \$15.00 a week. In computing the total number of females special and part-time workers shall not be included.

Minimum (or least) rates for inexperienced adult women

(b) Adult female learners shall be paid not less than the following rates:

SCHEDULE OF APPRENTICESHIP FOR ADULT WOMEN

Wage first 6 months	Wage second 6 months	Thereafter not less than	Length of apprenticeship
\$12.00 a week \$32.00 a month	\$14.00 a week \$36.00 a month	\$16.00 a week \$43.33 a month	12 months

Minimum (or least) rates for experienced minors

(c) Minor learners shall be paid not less than the following rates:

SCHEDULE OF APPRENTICESHIP FOR MINORS

Wage first 6 months	Wage second 6 months	Wage third 6 months	Thereafter not less than	Length of apprenticeship
\$10.00 a week \$43.33 a month	\$12.00 a week \$52.00 a month	\$14.00 a week \$60.66 a month	\$16.00 a week \$69.33 a month	18 months

NOTE: A minor girl who is still a learner upon reaching the age of eighteen years shall be paid not less than the rates specified for adult learners.

Registration of learners

(d) Every person, firm or corporation employing learners shall make application for the registration of such learners at the end of two weeks' employment, and pending the issuance of certificates of registration, shall pay to all learners not less than the minimum rate for the wage group in which they belong.

Penalty for failure to register learners

(e) All women and minor learners for whom applications for learners' certificates have not been made to the Industrial Welfare Commission at the end of two weeks' employment will be rated by the Commission as experienced workers, to be paid not less than \$15.00 a week.

Learner defined

A learner is a woman or minor whom the Industrial Welfare Commission permits to work for a person, firm or corporation for less than the legal minimum wage, in consideration of the provision, by such employer, of reasonable facilities for learning the mercantile industry.

Learners' permits will be withheld by the Commission where there is evidence of attempted evasion of the law by firms which make a practice of dismissing learners when they reach their promotional periods.

PART-TIME WORKERS

Minimum (or least) rates for part-time workers

3. No person, firm or corporation shall employ, or suffer or permit any woman or minor to be employed as a part-time worker (except as otherwise provided) at less than the following rates and under the following conditions:

Adult women and experienced minor part-time workers

(a) ADULT FEMALE PART-TIME WORKERS AND EXPERIENCED MINOR PART-TIME WORKERS at not less than 40¢ an hour.

Registration of part-time workers

(b) INEXPERIENCED MINOR PART-TIME WORKERS at not less than 30¢ an hour.

(c) All adult and minor part-time workers shall be registered with the Commission. Registration of part-time workers is accomplished by sending to the Commission, at the end of two weeks' employment, the following information concerning each part-time worker: Name, age, address, hours to be worked a week, amount to be paid a week, and for minors under sixteen years of age, the kind of working permit.

for part-time workers

Adult women and experienced minor part-time workers
Inexperienced minor part-time workers
Registration of part-time workers

Number of part-time workers limited
Students of accredited vocational, continuation or cooperative schools
Part-time worker defined

Minimum (or least) rates for special workers
Adult special workers
Minor special workers
Special worker defined

Office workers regulated by office order

Selling experience granted to office workers

Office experience granted to saleswomen

or minor to be employed as a part-time worker (except waitresses*) at less than the following rates and under the following conditions:

(a) ADULT FEMALE PART-TIME WORKERS AND EXPERIENCED MINOR PART-TIME WORKERS at not less than 40¢ an hour.

(b) INEXPERIENCED MINOR PART-TIME WORKERS at not less than 30¢ an hour.

(c) All adult and minor part-time workers shall be registered with the Commission. Registration of part-time workers is accomplished by sending to the Commission, at the end of two weeks' employment, the following information concerning each part-time worker: Name, age, address, hours to be worked a week, amount to be paid a week, and for minors under sixteen years of age, the kind of working permit.

(d) The total number of adult and minor female part-time workers shall not exceed 10 per cent of the total number of females employed.

(e) Any person, firm or corporation may employ students attending accredited vocational, continuation or cooperative schools at part-time work on special permits from the Commission, and at rates to be determined by the Commission.

A part-time worker is one who is employed on an hourly basis for less than eight hours in one day.

SPECIAL WORKERS

4. No person, firm or corporation shall employ, or suffer or permit any woman or minor to be employed as a SPECIAL WORKER at less than the following rates:

(a) ADULT SPECIAL WORKERS at not less than \$2.56½ a day.

(b) MINOR SPECIAL WORKERS at not less than \$2.00 a day.

A special worker is one who is employed on a full day basis for less than six days a week.

OFFICE WORKERS

5. (a) Every person, firm or corporation employing women or minors in the mercantile industry shall pay all OFFICE WORKERS in accordance with the provisions of the Industrial Welfare Commission Order No. 9 Amended 1920.

(b) A woman or minor who has been employed in the selling force of a mercantile establishment shall, when she enters the office force of that establishment, be granted one-third of her selling experience, to be applied to her office experience.

(c) A woman or minor who has been employed as an office worker in a mercantile establishment shall, when she enters the selling force of that establishment, be granted one-third of her office experience, to be applied to her selling experience.

*The rates for part-time waitresses are regulated by Industrial Welfare Commission Order No. 11 Amended 1920.

THIS ORDER MUST BE POSTED

LEGISLATIVE INTENT SERVICE (800) 666-1917



333 EIGHTH STREET, SUITE 100, SAN FRANCISCO, CALIFORNIA 94103
INDUSTRIAL WELFARE COMMISSION

SEAL. 3. MILLINERY WORKROOM APPRENTICES

Minimum (or least) rates for seasonal millinery workroom apprentices

Number of seasonal millinery workroom apprentices limited

Minimum (or least) rates for seasonal millinery workroom apprentices

6. No person, firm or corporation shall employ or suffer or permit the employment of seasonal millinery workroom apprentices for less than the legal minimum wage of \$15.00 a week, except at the rates and under the conditions hereinafter set forth:

(a) No person, firm or corporation shall suffer or permit the employment, in the millinery workroom of any mercantile establishment, of over 33 1/3 per cent of the total number of females employed in the millinery workroom, as apprentices, at less than the legal minimum wage of \$15.00 a week.

(b) Seasonal millinery apprentices shall be paid not less than the following scales:

SCHEDULE FOR MILLINERY WORKROOM APPRENTICES

FIRST SEASON

First 4 weeks.....	\$3.00 a week
Second 4 weeks.....	9.00 a week
Third 4 weeks.....	10.00 a week

SECOND SEASON

First 4 weeks.....	\$12.00 a week
Second 4 weeks.....	13.00 a week
Third 4 weeks.....	14.00 a week

and thereafter not less than \$10.00 a week.

(c) Every person, firm or corporation employing seasonal millinery workroom apprentices shall make application to the Industrial Welfare Commission for the registration of such apprentices at the end of two weeks' employment.

(d) A woman or minor who has been employed as a seasonal millinery worker in a mercantile establishment shall, when she enters the selling force of that establishment, be granted one-third of her millinery workroom experience, to be applied on her selling experience.

FEMALE WORKERS IN FOOD-CATERING DEPARTMENTS

Employment of women in food-catering departments regulated by hotel and restaurant order
Combination woman defined

Women and minors to be paid in accordance with experience

No deduction from the minimum (or least) wage for cash shortage

Wages paid on commission, bonus or piece-rate basis must equal the minimum (or least) rate
Keeping of records

Failure to keep records a misdemeanor

Hours of women and minors limited

Penalty imposed for special minimum wage

Filing reports

Inspection

Posting of Order

7. Every person, firm or corporation employing women or minors in the mercantile industry shall pay all female workers (including combination women) in food-catering department in accordance with the provisions of Industrial Welfare Commission Order No. 12 Amended 1920.

A combination woman is one who acts both as waitress and saleswoman.

8. Every person, firm or corporation now employing women or minors in the mercantile industry shall rate and pay such women and minors in accordance with their periods of employment, as specified in sections 1, 2 and 3 of this Order.

9. No person, firm or corporation shall make a deduction from the minimum wage of any woman or minor for a cash shortage, unless it be shown that the shortage is caused by the willful or dishonest act of the employee, notwithstanding any contract or arrangement to the contrary.

10. Every person, firm or corporation making payment of wages upon a commission, bonus or piece-rate basis shall guarantee to all women and minor employees not less than the minimum time rates for the wage groups in which they belong.

11. (a) Every person, firm or corporation employing women or minors in the mercantile industry shall keep, in a form and manner approved by the Industrial Welfare Commission, records of the names and addresses, the rates paid, the hours worked and the amounts earned by all women and minor employees, such records to be kept on file for at least one year. Male minors shall be marked "M" and female minors "F" on the pay roll.

(b) Every person, firm or corporation employing women or minors in the mercantile industry, failing to keep records as required in Section 11 (a) of this Order, shall be guilty of a misdemeanor.

12. No person, firm or corporation shall employ, or suffer or permit any woman or minor to work in any mercantile establishment more than eight (8) hours in any one day or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week. The hours of labor of women and minors employed in the food-catering departments of mercantile establishments are regulated by Industrial Welfare Commission Order No. 12 Amended 1920.

13. A permit may be issued by the Commission to a woman physically disabled by age or otherwise, authorizing the employment of such licensee for a wage less than the legal minimum wage; and the Commission shall fix a special minimum for such woman.

14. (a) Every person, firm or corporation employing women or minors in the mercantile industry shall furnish to the Commission, at its request, any and all reports or information which the Commission may require to carry out the purposes of the Act creating the Commission, such reports and information to be verified by the oath of the person, member of the firm or the president, secretary or manager of the corporation furnishing the same, if and when so requested by the Commission.

(b) Every person, firm or corporation shall allow any member of the Commission, or any of its duly authorized representatives, free access to the place of business of such person, firm or corporation, for the purpose of making inspection of, or excerpts from, all books, reports, contracts, pay rolls, documents or papers of such person, firm or corporation, relating to the employment of women and minors and payment therefor by such person, firm or corporation; or for the purpose of making any investigation authorized by the Act creating the Commission.

15. Every person, firm or corporation employing women or minors in the mercantile industry shall post a copy of this Order in the general workroom and one in the women's dressing room.

16. The Commission shall exercise exclusive jurisdiction over all questions arising as to the administration and interpretation of this Order.

THIS ORDER SHALL BECOME EFFECTIVE SIXTY (60) DAYS FROM THE DATE HEREOF, or

(800) 666-1917

LEGISLATIVE INTENT SERVICE



Permit issued for special minimum wage

Filing reports

Inspection

Posting of Order

days in any one week. The hours of labor of women and minors employed in the food-catering departments of mercantile establishments are regulated by Industrial Welfare Commission Order No. 12 Amended 1920.

18. A permit may be issued by the Commission to a woman physically disabled by age or otherwise, authorizing the employment of such licensee for a wage less than the legal minimum wage; and the Commission shall fix a special minimum for such woman.

14. (a) Every person, firm or corporation employing women or minors in the mercantile industry shall furnish to the Commission, at its request, any and all reports or information which the Commission may require to carry out the purposes of the Act creating the Commission, such reports and information to be verified by the oath of the person, member of the firm or the president, secretary or manager of the corporation furnishing the same, if and when so requested by the Commission.

(b) Every person, firm or corporation shall allow any member of the Commission, or any of its duly authorized representatives, free access to the place of business of such person, firm or corporation, for the purpose of making inspection of, or extracts from, all books, reports, contracts, pay rolls, documents or papers of such person, firm or corporation, relating to the employment of women and minors and payment therefor by such person, firm or corporation; or for the purpose of making any investigation authorized by the Act creating the Commission.

15. Every person, firm or corporation employing women or minors in the mercantile industry shall post a copy of this Order in the general workroom and one in the women's dressing room.

16. The Commission shall exercise exclusive jurisdiction over all questions arising as to the administration and interpretation of this Order.

THIS ORDER SHALL BECOME EFFECTIVE SIXTY (60) DAYS FROM THE DATE HEREOF, of July 31, 1920.

Dated at San Francisco, California, this first day of June, 1920.

Order No. 5 Amended, 1918, dated April 22, 1918, is hereby rescinded as of the date when this Order becomes effective.

ATTEST: KATHERINE PHILIPS EGDON,
Executive Officer.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

A. B. C. DOERMANN, Chairman
KATHERINE PHILIPS EGDON
ALEXANDER GOLDSTEIN
WALTER G. MATHEWSON

NOTICE

NOTHING IN THIS ORDER PREVENTS EMPLOYERS FROM PAYING MORE THAN THE RATES FIXED BY THE COMMISSION AS THE MINIMUM OR LEAST RATES. THIS ORDER APPLIES TO ALL WOMEN AND MINORS IN THE MERCANTILE INDUSTRY.

The Industrial Welfare Commission expects to review its Orders annually.

SOUTHERN CALIFORNIA OFFICE, 412 UNION LEAGUE BUILDING, LOS ANGELES

STATUTES OF CALIFORNIA, 1918, CHAPTER 131

"Every employer or other person who, either individually or as an officer, agent or employee of a corporation, or other persons, violates or refuses or neglects to comply with the provisions of this act, or any orders or rulings of this Commission, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than fifty dollars, or by imprisonment in the State Prison for not less than thirty days, or by both such fine and imprisonment."

"For the purposes of this act, a minor is defined to be a person of either sex under the age of eighteen years."

411 1-17-1920

D IN A CONSPICUOUS PLACE

LEGISLATIVE INTENT SERVICE (800) 666-1917

A. E. C. DONSMANN, CHAIRMAN
WALTER C. MATTHEWS
HENRY W. LOUIS
GEORGE F. NEAL
MRS. KATHERINE PHILIPS EDDON
EXECUTIVE COMMISSIONER

TELEPHONE PARKING
LOCAL 88 AND 89

INDUSTRIAL WELFARE COMMISSION
OF THE
STATE OF CALIFORNIA

820 STATE BUILDING
SAN FRANCISCO

Excerpt from Industrial Welfare Commission Order #6
Amended 1920, Mercantile Industry.

SEASONAL MILLINERY WORKROOM APPRENTICES

MINIMUM (or least) RATES FOR
SEASONAL MILLINERY WORKROOM
APPRENTICES.

6. No person, firm or corporation shall employ, or suffer or permit the employment of seasonal millinery workroom apprentices for less than the legal minimum wage of \$16.00 a week, except at the rates and under the conditions hereinafter set forth:

NUMBER OF SEASONAL MILLINERY
WORKROOM APPRENTICES LIMITED

(a) No person, firm or corporation shall suffer or permit the employment, in the millinery workroom of any mercantile establishment of over 33-1/3% of the total number of females employed in the millinery workroom, as apprentices at less than the legal minimum wage of \$16.00 a week.

MINIMUM (or least) RATES FOR
SEASONAL MILLINERY WORKROOM
APPRENTICES.

(b) Seasonal millinery apprentices shall be paid not less than the following scale:

SCHEDULE FOR MILLINERY WORKROOM APPRENTICES

FIRST SEASON

First 4 weeks	..\$5.00 a week
Second 4 weeks	.. 9.00 a week
Third 4 weeks	..10.00 a week

SECOND SEASON

First 4 weeks	..\$12.00 a week
Second 4 weeks	.. 13.00 a week
Third 4 weeks	.. 14.00 a week

and thereafter not less than \$16.00 a week.

REGISTRATION OF SEASONAL MILLINERY WORKROOM APPRENTICES

(c) Every person, firm or corporation employing seasonal millinery workroom apprentices shall make application to the Industrial Welfare Commission for the registration of such apprentices at the end of two weeks employment.

MINIMUM (or least) RATES FOR
MILLINERY WORKROOM APPRENTICES

(d) A woman or minor who has been employed as a seasonal millinery worker in a mercantile establishment shall, when she enters the selling force of that establishment, be granted one-third of her millinery workroom experience to be applied on her selling experience.

LEGISLATIVE INTENT SERVICE (800) 666-1917

DIVISION OF INDUSTRIAL WELFARE

311 VAN WALKER AVENUE
SAN FRANCISCO
STATE BUILDING, CIVIC CENTER
LOS ANGELES
HOLLAND BUILDING
FRESNO

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of the authority vested in it by the Statutes of California, 1918, Chapter 324, and amendments thereto, and after public hearing duly had on motion of the Commission at the City Hall in the City and County of San Francisco on Thursday, December 14, 1922, notice of said hearing having been duly given in the manner provided by law, and the Industrial Welfare Commission thereafter finding and determining that the least wage adequate to supply to women and minors employed in industry the necessary cost of proper living and to maintain their health and welfare is \$16 a week.

THE INDUSTRIAL WELFARE COMMISSION OF THE STATE OF CALIFORNIA DOES HEREBY ORDER THAT:

1. MINIMUM WAGE FOR EXPERIENCED WOMEN AND MINOR WORKERS.

(a) No employer shall pay or suffer or permit to be paid to any experienced woman or minor employed in any mercantile establishment in California less than \$16 for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than the legal minimum wage of \$16.

The term "standard week" as herein used is defined to be the regularly established number of hours worked per week in the place of employment.

The term "minor" as used herein is defined to be a person of either sex under the age of eighteen years.

(b) **Experience Defined.** Adult women are deemed experienced workers in the mercantile industry when they have completed one year of work in said industry and minors are deemed experienced workers in the mercantile industry when they have completed two years of work in said industry, except that any minor whose learning period shall have commenced prior to the effective date of this order shall be deemed experienced when he or she has been employed one year and six months in the mercantile industry.

2. MINIMUM WAGE FOR INEXPERIENCED WOMEN AND MINOR WORKERS OR LEARNERS.

(a) **Learners Defined.** A learner is a woman or minor whom the Industrial Welfare Commission permits, through the issuance of a certificate of registration, to work for less than the legal minimum wage of \$16 a week in consideration of the provision by the employer of reasonable facilities for learning the industry. Learners' certificates of registration will be withheld by the Commission where there is evidence of attempted evasion of the law by employers who make a practice of dismissing learners when they reach their promotional periods.

The term "learner" as herein used is synonymous with the terms "inexperienced woman" or "inexperienced minor."

(b) **Limitation of Number of Learners.** The total number of female learners in any mercantile establishment (exclusive of the office force, the millinery workroom force, elevator operators and female workers in food catering departments) receiving less than the legal minimum wage of \$16 a week shall not exceed 33 1/3% of the total number of female workers employed in said establishment (exclusive of the office force, the millinery workroom force, elevator operators and female workers in food catering departments). In computing the total number of females employed under this subdivision, special and part-time workers shall not be included.

(c) **Registration of Learners.** Each employer shall register each learner employed by him with the Industrial Welfare Commission three weeks from the commencement of the employment of said learner, and pending the issuance of certificates of registration by the Commission, he shall pay to all learners not less than the minimum rates as provided by paragraph 2, subdivisions (d) and (e). All women and minor workers not registered with the Industrial Welfare Commission at the end of three weeks employment shall be rated by the Commission as experienced workers to be paid not less than the legal minimum wage of \$16 a week.

(d) **Minimum Wage for Adult Female Learners.** No employer in the mercantile industry shall pay or suffer or permit to be paid to any adult female learner less than the following:

During First Six Months of the Learning Period in the Mercantile Industry—Not less than \$12 a week for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than \$12.

During Second Six Months of the Learning Period in the Mercantile Industry—Not less than \$14 a week for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than \$14.

(e) **Minimum Wage for Minor Learners.** No employer in the mercantile industry shall pay or suffer or permit to be paid to any minor learner less than the following:

During First Six Months of the Learning Period in the Mercantile Industry—Not less than \$10 a week for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than \$10.

During Second Six Months of the Learning Period in the Mercantile Industry—Not less than \$11 a week for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than \$11.

During Third Six Months of the Learning Period in the Mercantile Industry—Not less than \$12 a week for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than \$12.

During Fourth Six Months of the Learning Period in the Mercantile Industry—Not less than \$14 a week for the standard week's work. An employer who furnishes to any employee less than the standard week's work shall pay to said employee for said week not less than \$14.

NOTE—A minor girl who is still a learner upon reaching the age of eighteen years shall be paid thereafter not less than the rates specified for adult learners.

3. MINIMUM WAGE FOR PART-TIME ADULT AND MINOR WORKERS.

(a) No employer shall pay or suffer or permit to be paid to any adult or minor part-time worker (except waitresses and errand boys) less than the following:

Adult Female Part-Time Workers—Not less than 40¢ an hour.

Minor Part-Time Workers—Not less than 30¢ an hour.

(b) **Limitation of Number of Part-Time Workers.** The total number of adult and minor female part-time workers in any mercantile establishment shall not exceed 10% of the total number of female employees.

(c) Any employer may employ students attending accredited vocational, continuation or cooperative schools at part-time work on special permits from the Industrial Welfare Commission and at rates to be determined by the Commission.

(d) **Part-Time Worker Defined.** A part-time worker is a woman or minor who is employed on an hourly basis for less than eight hours in one day.

4. MINIMUM WAGE FOR SPECIAL WORKERS

(a) No employer shall pay or suffer or permit to be paid to any adult woman or minor special worker less than the following:

Adult Female Special Workers—Not less than \$3.54 a day.

Minor Special Workers—Not less than \$2.00 a day.

(b) Special Worker Defined. A special worker is a woman or minor who is employed on a full-day basis for three weeks or less.

5. MINIMUM WAGE FOR OFFICE WORKERS

(a) Office workers are not included within the operation of this order but are covered by the provisions of the order of the Industrial Welfare Commission for general and professional offices.

(b) A woman or minor who has been employed in the selling force of a mercantile establishment shall, when she enters the office force of that establishment, be granted one-third of her selling experience, to be applied toward office experience.

(c) A woman or minor who has been employed as an office woman in a mercantile establishment shall, when she enters the selling force of that establishment, be granted one-third of her office experience, to be applied toward mercantile experience.

6. MINIMUM WAGE FOR WOMEN AND MINORS EMPLOYED IN THE FOOD CATERING DEPARTMENTS OF MERCANTILE ESTABLISHMENTS

Women and minors employed in the food catering departments of mercantile establishments are not included within the operation of this order but are covered by the provisions of the order of the Industrial Welfare Commission for hotels and restaurants.

7. MINIMUM WAGE FOR ELEVATOR OPERATORS

An employer employing women or minors as elevator operators shall pay to such women and minors not less than \$12 a week for the standard week's work during the first three weeks of employment and thereafter not less than \$16 a week for the standard week's work.

8. MINIMUM WAGE FOR MESSENGERS AND ERRAND BOYS

An employer employing minor boys regularly as messenger or errand boys shall pay to such minor boys not less than \$10.56 a week for the standard week's work during the first three weeks of their employment and thereafter not less than \$12 a week for the standard week's work. Part-time messenger or errand boys shall be paid not less than 25¢ an hour.

9. No employer shall make any deduction from the foregoing minimum rates for a cash shortage, unless it is shown that the shortage is caused by the wilful or dishonest act of the employee, notwithstanding any contract or arrangement to the contrary.

10. KEEPING OF RECORDS

Every employer employing women or minors in the mercantile industry shall keep, in a form and manner approved by the Industrial Welfare Commission, records of the names and addresses, the number of hours worked and the amounts earned by all women and minor employees, such records to be kept on file for at least one year. Male minors shall be marked "M" and female minors "F" on the pay roll.

Every employer employing women or minors in the mercantile industry, failing to keep records as required in Section 10 of this Order, SHALL BE GUILTY OF A MISDEMEANOR.

11. FILING REPORTS

Every employer employing women or minors in the mercantile industry shall furnish to the Commission, at its request, any and all reports or information which the Commission may require to carry out the purpose of the Act creating the Commission, such reports and information to be verified by oath of the person furnishing the same, if and when so requested by the Commission.

12. INSPECTION

Every employer employing women or minors in the mercantile industry shall allow any member of the Commission or any of its duly authorized representatives, free access to the place of business of such employer, for the purpose of making inspection of or excerpts from all books, reports, contracts, pay rolls, documents or papers of such employer relating to the employment of women and minors and payment therefor by such employer, or for the purpose of making any investigation authorized by the Act creating the Commission.

13. HOURS OF LABOR

No employer shall employ or suffer or permit any woman or minor to work in any mercantile establishment more than eight (8) hours in any one day, or more than forty eight (48) hours in any one week, or more than six (6) days in any one week.

14. PERMIT FOR SPECIAL MINIMUM WAGE

A permit may be issued upon joint application of worker and employer to a woman physically defective by age or otherwise authorizing her employment for a period of six (6) months or less, at a special minimum wage less than the legal minimum wage hereinabove established.

15. POSTING OF ORDER

Every employer shall post a copy of this Order in a conspicuous place where it can be read by the women and minor employees.

16. The Commission shall exercise exclusive jurisdiction over all questions arising as to the administration and interpretation of this Order.

DATED at San Francisco, California, this 29th day of December, 1922.

Order No. 5, amended 1920, dated June 7, 1920, is hereby rescinded as and of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

MARGARET L. CLARK, Chief
Division of Industrial Welfare

A. B. C. DOHRMANN, Chairman
KATHERINE PHILLIPS EASON
WALTER G. MATHIAS
HENRY W. LOUIS
PAUL A. SCHNEIDER

NOTICE

NOTHING IN THIS ORDER PREVENTS EMPLOYERS FROM PAYING MORE THAN THE RATES FIXED BY THE COMMISSION AS THE MINIMUM OR LEAST RATES. THIS ORDER APPLIES TO ALL WOMEN AND MINORS IN THE MERCANTILE INDUSTRY.

LEGISLATIVE INTENT SERVICE (600) 668-1917

LEGISLATIVE INTENT SERVICE

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of the authority vested in it by Sections 1171 to 1203, inclusive, Labor Code of the State of California, and after findings and recommendations of a wage board having been received and public hearing duly had on March 12, 1943, on motion of the Industrial Welfare Commission, notice of said hearing having been duly given in the manner provided by law, the Industrial Welfare Commission hereafter finding and determining that the minimum wage to be paid to women and minors in the mercantile industry is such wage as hereinafter set out, and the hours of work consistent with, and the standard conditions of labor demanded by the health and welfare of such women and minors are as set forth below.

THE INDUSTRIAL WELFARE COMMISSION OF THE STATE OF CALIFORNIA DOES HEREBY ORDER THAT:

1. APPLICABILITY OF ORDER

This Order shall apply to all women and minor employees employed in the mercantile industry, whether on a time, piece-rate, commission, or other basis of pay.

2. DEFINITIONS

- (a) "The Commission" means the Industrial Welfare Commission of the State of California.
- (b) "Mercantile industry" includes any industry or business operated for the purpose of:
 - 1. Selling, purchasing, or distributing merchandise to wholesalers, retailers, industrial or commercial users, or acting as agents, jobbers, or brokers in buying merchandise for or selling merchandise to such persons or companies, and rendering services incidental to such operations;
 - 2. Selling, purchasing, or distributing merchandise for personal or household consumption, and rendering services incidental to the sale of such goods; and
 - 3. Selling, purchasing, or distributing real estate, insurance or securities;

Except those functions of the industry performed by:

- (a) Employees covered by the Order for Professional, Technical, Clerical and Similar Occupations;
- (b) Employees covered by the Order for the Public Housekeeping Industry;
- (c) Employees covered by the Order for the Manufacturing Industry; and
- (d) Employees covered by the Order for the Personal Service Industry.
- (e) "Employ" means to engage, suffer, or permit to work.
- (f) "Employee" means any woman or minor engaged, suffered or permitted to work, and includes employees who work under instructions which indicate participation in a mercantile organization engaged in selling, demonstrating, distributing, or advertising, and under conditions which indicate that the employer has reasonable control over the hours worked by the employee.
- (g) "Employer" means any person, as defined in the California Labor Code, Section 18, who employs any woman or minor.
- (h) "Hours employed" includes all time during which:
 - 1. A woman or minor is required to be on the employer's premises ready to work, or to be on duty, or to be at a prescribed work place.
 - 2. A woman or minor is suffered or permitted to work, whether or not required to do so. Such time includes, but shall not be limited to, time when the employee is required to wait on the premises while no work is provided by the employer and time when an employee is required or instructed to travel on the employer's business after the beginning and before the end of her work day.
- (i) A "Work Day" or "Day" means the twenty-four (24) hour period from 6:00 a.m. of one day to 6:00 a.m. of the following day.
- (j) "Split Shift" means a schedule of daily hours in which the hours of work are not consecutive, except that interruption of working hours for meal or rest periods of one hour or less does not constitute a split shift.
- (k) "Experienced Employee": All employees covered by this Order shall be deemed experienced, except as provided in subsection (j) of this section.
- (l) "Learner" is a woman or minor whom the Commission permits, upon registration, to work for less than the legal minimum wage provided for experienced employees in consideration of the provision by the employer of reasonable facilities for training the industry.
- (m) "Handicapped Employee" means a woman or minor employee whose earning capacity is impaired by age or physical or mental deficiency or injury and whom the Commission may permit to be employed at a special minimum wage. Such permits shall be granted only upon joint application of employer and employee and after investigation and finding of disability by the Division of Industrial Welfare.
- (n) "Wages" means compensation to an employee, and the minimum wages provided herein shall be an unconditional payment in cash or check negotiable at par, without deduction, except such deductions as are required by law, and except such deductions as are permitted by law and voluntarily requested in writing by the employee.

3. HOURS

- (a) No employer shall employ any person under the age of eighteen (18) years for more than eight (8) hours in any one day, or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week, or after the hour of 10 p.m. or before the hour of 6 a.m.
- (b) No employer shall employ any female in any establishment or industry covered by this Order more than eight (8) hours in any one day of twenty-four (24) hours, or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week. Said eight (8) hours of employment must be performed in a period not to exceed thirteen (13) hours.
- (c) Every woman and minor shall have one day's rest in seven. Sunday shall be considered the established day of rest for all women and minors unless a different arrangement is made by the employer for the purpose of providing another day of the week as the day of rest.

(d) Every employer shall allow a meal period of not less than thirty (30) consecutive minutes for each woman or minor employee not later than five (5) hours after the beginning of the employee's work day. If during such meal period the employee cannot be relieved of all duties and permitted to leave the premises, such meal period shall not be deducted from hours worked.

(e) No employee whose work requires that she remain standing shall be required to work more than two and one-half (2½) hours consecutively without a rest period of ten (10) minutes. No wage deduction shall be made for such rest period.

(f) Where women are employed between the hours of 10 p.m. and 6 a.m.:

1. No woman shall be required to report for work or be dismissed during those hours unless suitable transportation is available.
2. The employer shall see that suitable facilities are available for securing hot food or drink, or heating food or drink during those hours.

(g) Eleven (11) hours must elapse between the end of one work day and the beginning of another, except at the time when there is a change from one working schedule or assignment to another.

4. LEARNERS

Employers may employ women and minors as learners in accordance with the terms of permits issued by the Commission, provided that within two (2) weeks after employment the employer shall register such learner upon forms to be supplied by the Commission. Such permits will be granted under the following conditions:

(a) Pending registration of such workers with the Industrial Welfare Commission, the employer shall pay to all learners not less than the minimum rates as provided in paragraph 5, subdivision (b). All women and minor workers not registered with the Industrial Welfare Commission at the end of two (2) weeks' employment shall be rated as experienced workers to be paid not less than the rates as provided in paragraph 5, subdivision (a).

(b) No permit shall be issued where there is evidence of attempted evasion of the law by employers who make a practice of dismissing learners when they reach the promotional period.

(c) An employer may be deemed a learner for the first 480 hours of employment in the mercantile industry.

(d) If an employee transfers from one occupation covered by this Order to any other occupation covered by this Order, whether in the same or in another establishment, full credit shall be given for previous experience.

(e) The total number of learners in any mercantile establishment covered by this Order receiving less than the minimum wage for experienced workers shall not exceed twenty percent (20%) of the total number of workers covered by this Order in the establishment. Workers employed less than thirty-six (36) hours a week shall not be included in computing the total number of employees.

5. MINIMUM WAGES

Every employer shall pay to each employee wages not less than the following:

(a) Experienced employees:

1. In any week in which such employee is employed forty (40) hours, \$18.00 per week.
2. In any week in which such employee is employed less than forty (40) hours, fifty cents (50¢) per hour, except that the total wage need not exceed \$18.00 per week, and except that vocational students who are employed less than forty (40) hours per week, and minors whose working hours are regulated by the California School Code, may be paid forty-five cents (45¢) per hour.
3. In any week in which such employee is employed longer than forty (40) hours, forty-five cents (45¢) per hour for each hour worked in excess of forty (40) hours up to and including forty-eight (48) hours.
4. Each day an employee is required to report for work and does report for work, but is not put to work or works four (4) hours or less, the employer shall pay the employee for not less than four (4) hours at fifty cents (50¢) per hour, except that this shall not apply to vocational students or to minors whose working hours are regulated by the California School Code.
5. On any day in which an employee works a split shift, fifty cents (50¢) for the day in addition to the minimum wage required by this section.
6. Where an employee is employed after 10 p.m. or before 6 a.m., sixty cents (60¢) per hour during such hours.
7. In no case shall gratuities or tips from patrons, or others, be counted as part of the minimum wage; and the employee shall not be required to report tips for this purpose.
8. Handicapped employees: Sixty-six and two-thirds percent (66⅔%) of the wages prescribed in this section.

(b) Learners:

1. In any week in which such employee is employed forty (40) hours, \$16.00 per week.
2. In any week in which such employee is employed less than forty (40) hours, forty-five cents (45¢) per hour, except that the total wage need not exceed \$16.00 per week, and except that vocational students and minors whose working hours are regulated by the California School Code, who are employed less than forty (40) hours per week may be paid forty cents (40¢) per hour.
3. In any week in which such employee is employed longer than forty (40) hours, forty cents (40¢) per hour for each hour worked in excess of forty (40) hours.
4. Each day an employee is required to report for work and does report for work, but is not put to work or works four (4) hours or less, the employer shall pay the employee for not less than four (4) hours at forty-five cents (45¢) per hour, except that this shall not apply to vocational students or to minors whose working hours are regulated by the California School Code.
5. On any day in which an employee works a split shift, fifty cents (50¢) for the day in addition to the minimum wage required by this section.
6. Where an employee is employed after 10 p.m. or before 6 a.m., fifty cents (50¢) per hour during such hours.
7. In no case shall gratuities or tips from patrons, or others, be counted as part of the minimum wage; and the employee shall not be required to report tips for this purpose.
8. Handicapped employees: Sixty-six and two-thirds percent (66⅔%) of the wages prescribed in this section.

6. COMMISSIONS

The minimum wage shall be paid whether compensation is measured by time, piece, commission or otherwise. In computing the minimum wage, a commission shall be counted in the payroll period in which it is earned.

7. PROHIBITED WAGE DEDUCTIONS

(a) No rule or regulation or condition of employment shall be enforced or required by any employer whereby the employee would be compelled to pay or use for any purpose any portion of the minimum wages herein required to be paid. The foregoing shall apply, but is not limited to, the purchase of tools, equipment and uniforms or to the maintenance, laundering and cleaning of uniforms.

(b) As used in this Order, the term "uniform" includes all garments such as suits, dresses, skirts, collars, cuffs, head-dresses, hats, and all other garments whatsoever which are worn by the employee as a condition of employment. It shall be a presumption that uniforms worn by the employees of any establishment are worn as a condition of employment, if such uniforms are of similar design, color or material, or form part of the distinctive pattern of the establishment or distinguish the employee as an employee of the establishment.

(c) No person, firm or corporation shall make any deduction from the minimum wage of an employee on account of a cash shortage unless it be shown that the shortage is caused by the willful or dishonest act of the employee, notwithstanding any contract or arrangement to the contrary.

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(d) No person, firm or corporation shall make any deduction from the minimum wage of an employee on account of breakage or loss of equipment by the employee unless it is shown that the breakage or loss is caused by the willful or dishonest act of the employee, notwithstanding any contract or arrangement to the contrary.

8. CHARGES FOR MEALS AND ROOMS

(a) Employees shall not be required to pay for meals not extra nor to pay more than the following amounts for a bona fide meal:

Breakfast	10 cents	Lunch	15 cents
Dinner	15 cents		

(b) Charges for rooms:

1. No employer employing women or minors in the establishments defined under this Order who furnishes rooms for lodging purposes to such employees may charge more than \$3.00 per week to a resident employee occupying a room alone.
2. Where two employees occupy one room, the employer may charge not more than \$2.00 per week per person, and separate beds shall be furnished to the employees.

9. KEEPING OF RECORDS

(a) Every employer shall keep at his place of employment, in a manner approved by the Commissioner, an accurate record with respect to each employee of the following information:

1. Name in full;
2. Home address;
3. Social Security number;
4. Date of birth, if under 18 years of age;
5. Occupation;
6. Learners shall be marked "L"; male minors under 18 years of age shall be marked "M"; and female minors under 18 years of age shall be marked "F"; and students shall be marked "S";
7. Hours employed, which shall show the beginning and ending of hours employed by the employee each work day, which shall be recorded each day at the time the employee begins and ends employment;
8. Total wages paid and total hours employed in each payroll period;
9. Hours employed and wages paid to each employee shall appear on the same record.

(b) All required records shall be kept on file for at least one year at the office or establishment at which the employees are employed.

(c) Every workroom shall be equipped with a clock, plainly visible to all employees.

10. FILING REPORTS

Every employer shall furnish to the Commission, or its duly authorized representative, at its request, any and all reports or information which the Commission may in its judgment require to carry out the purpose of this Order; such reports and information to be verified by each of the employer or his agent who furnishes the same, if and when so requested by the Commission.

11. INSPECTIONS

The Commission or duly authorized representatives of the Division of Industrial Welfare shall be allowed free access to any office or establishment where women or minors covered by this Order are employed to investigate and gather data regarding wages, hours, and other conditions and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes; or for the purpose of making any other investigation authorized by Labor Code Section 1174.

12. INTERPRETATION OF ORDER

The Industrial Welfare Commission shall exercise jurisdiction over all questions arising as to the interpretation of this Order.

13. PENALTIES

Failure, refusal or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine, or imprisonment, or both.

14. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of the Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect, as if the part so held invalid, or unconstitutional, had not been included herein.

15. HEALTH AND WELFARE REGULATIONS

Every employer of women or minors covered by this Order in addition to the foregoing provisions, is required to comply with the provisions of the Industrial Welfare Commission Order prescribing Health and Welfare Regulations for Any Occupation, Trade, or Industry.

16. POSTING OF ORDER

Every employer shall post a copy of this Order in a conspicuous place where it can be read by the women and minor employees.

Dated at San Francisco, California, this 5th day of April, 1943.

Order No. 14, amended, dated April 8, 1923, is hereby reconsidered as and of the date when this Order becomes effective.

This Order is effective June 21, 1943.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

JOHN G. PACKARD, Chairman
MARGARET L. CLARK
A. P. GATNGE
EMILY H. HUNTINGTON
ANNE K. SALT

RENA BRYANT, Chief
Division of Industrial Welfare

NOTICE

It is recommended that employees covered by this Order keep a record of the hours they work each day and the wage paid.

NOTHING IN THIS ORDER PREVENTS EMPLOYERS FROM PAYING MORE THAN THE RATES FIXED BY THE COMMISSION AS THE MINIMUM OR LEAST RATES. THIS ORDER APPLIES TO ALL WOMEN AND MINORS IN THE MERCANTILE INDUSTRY.

STATUTES OF 1937, CHAPTER 90, CALIFORNIA LABOR CODE

Section 1172. Every employer or other person hiring either individually or as an officer, agent, or employee of another person a copy of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50.00) or by imprisonment for not less than thirty (30) days or by both, who does any of the following:

- (1) Requires or causes any woman or minor to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the Commission.
- (2) Fails or causes to be paid to any woman or minor a wage less than the minimum fixed by an order of the Commission.
- (3) Violates or causes or employs to comply with any provision of this Chapter or any order or ruling of the Commission.



State of California
California Administrative Code

Title 8. Industrial Relations

Immigration and Housing
Industrial Accident Commission
Industrial Welfare
Labor Law Enforcement



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Article 8. Mercantile Industry

(Order No. 7 N. S. Effective June 21, 1943)

11216. Applicability of Order. This Order shall apply to all women and minor employees employed in the mercantile industry, whether on a time, piece rate, commission, or other basis of pay.*†

11216. Definitions. (a) "The Commission" means the Industrial Welfare Commission of the State of California.

(b) "Mercantile Industry" includes any industry or business operated for the purpose of:

(1) Selling, purchasing, or distributing merchandise to wholesalers, retailers, industrial or commercial users, or acting as agents, jobbers, or brokers in buying merchandise for or selling merchandise to such persons or companies, and rendering services incidental to such operations;

(2) Selling, purchasing, or distributing merchandise for personal or household consumption, and rendering services incidental to the sale of such goods; and

(3) Selling, purchasing, or distributing real estate, insurance or securities;

Except those functions of the industry performed by:

(A) Employees covered by the Order for Professional, Technical, Clerical and Similar Occupations, Article 12;

(B) Employees covered by the Order for the Public Housekeeping Industry, Article 13;

(C) Employees covered by the Order for the Manufacturing Industry, Article 7; and

(D) Employees covered by the Order for the Personal Service Industry, Article 11.

(c) "Employ" means to engage, suffer, or permit to work.

(d) "Employee" means any woman or minor engaged, suffered or permitted to work, and includes employees who work under instructions which indicate participation in a mercantile organization engaged in selling, demonstrating, distributing, or advertising, and under conditions which indicate that the employer has reasonable control over the hours worked by the employee.

(e) "Employer" means any person, as defined in the California Labor Code, Section 18, who employs any woman or minor

(f) "Hours Employed" includes all time during which:

(1) A woman or minor is required to be on the employer's premises ready to work, or to be on duty, or to be at a prescribed work place.

(2) A woman or minor is suffered or permitted to work, whether or not required to do so. Such time includes, but shall not be limited to, time when the employee is required to wait on the premises while no work is provided by the employer and time when an employee is required or instructed to travel on

the employer's business after the beginning and before the end of her work day.

(g) A "Work Day" or "Day" means the twenty-four (24) hour period from 6:00 a.m. of one day to 6:00 a.m. of the following day.

(h) "Split Shift" means a schedule of daily hours in which the hours of work are not consecutive, except that interruption of working hours for meal or rest periods of one hour or less does not constitute a split shift.

(i) "Experienced Employee": All employees covered by this Order shall be deemed experienced, except as provided in subsection (j) of this Section.

(j) "Learner" is a woman or minor whom the Commission permits, upon registration, to work for less than the legal minimum wage provided for experienced employees in consideration of the provision by the employer of reasonable facilities for learning the industry.

(k) "Handicapped Employee" means a woman or minor employee whose earning capacity is impaired by age or physical or mental deficiency or injury and whom the Commission may permit to be employed at a special minimum wage. Such permits shall be granted only upon joint application of employer and employee and after investigation and finding of disability by the Division of Industrial Welfare.

(l) "Wages" means compensation to an employee, and the minimum wages provided herein shall be an unconditional payment in cash or check negotiable at par, without deduction, except such deductions as are required by law, and except such deductions as are permitted by law and voluntarily requested in writing by the employee.

11217. Hours. (a) No employer shall employ any person under the age of eighteen (18) years for more than eight (8) hours in any one day, or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week, or after the hour of 10:00 p.m. or before the hour of 6:00 a.m.

(b) No employer shall employ any female in any establishment or industry covered by this Order more than eight (8) hours in any one day of twenty-four (24) hours, or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week. Said eight (8) hours of employment must be performed in a period not to exceed thirteen (13) hours.

(c) Every woman and minor shall have one day's rest in seven. Sunday shall be considered the established day of rest for all women and minors unless a different arrangement is made by the employer for the purpose of providing another day of the week as the day of rest.

(d) Every employer shall allow a meal period of not less than thirty (30) consecutive minutes for each woman or minor employee not later than five (5) hours after the beginning of the employee's work day. If during such meal period the employee can not be relieved of all duties and permitted to leave the premises, such meal period shall not be deducted from hours worked.

(e) No employee whose work requires that she remain standing shall be required to work more than two and one-half (2½) hours consecutively

*† For statutory and source citations, see note to §11940.



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without a rest period of ten (10) minutes. No wage deduction shall be made for such rest period.

(f) Where women are employed between the hours of 10:00 p.m. and 6:00 a.m.:

(1) No woman shall be required to report for work or be dismissed during these hours unless suitable transportation is available.

(2) The employer shall see that suitable facilities are available for securing hot food or drink, or heating food or drink during these hours.

(g) Eleven (11) hours must elapse between the end of one work day and the beginning of another, except at the time when there is a change from one working schedule or assignment to another.*†

11218. Learners. Employers may employ women and minors as learners in accordance with the terms of permits issued by the Commission, provided that within two (2) weeks after employment the employer shall register such learner upon forms to be supplied by the Commission. Such permits will be granted under the following conditions:

(a) Pending registration of such workers with the Industrial Welfare Commission, the employer shall pay to all learners not less than the minimum rates as provided in Section 11219, subsection (b). All women and minor workers not registered with the Industrial Welfare Commission at the end of two (2) weeks' employment shall be rated as experienced workers to be paid not less than the rates as provided in Section 11219, subsection (a).

(b) No permit shall be issued where there is evidence of attempted evasion of the law by employers who make a practice of dismissing learners when they reach the promotional period.

(c) An employee may be deemed a learner for the first 480 hours of employment in the mercantile industry.

(d) If an employee transfers from one occupation covered by this Order to any other occupation covered by this Order, whether in the same or in another establishment, full credit shall be given for previous experience.

(e) The total number of learners in any mercantile establishment covered by this Order receiving less than the minimum wage for experienced workers shall not exceed twenty per cent (20%) of the total number of workers covered by this Order in the establishment. Workers employed less than thirty-six (36) hours a week shall not be included in computing the total number of employees.*†

11219. Minimum Wages. Every employer shall pay to each employee, wages not less than the following:

(a) Experienced Employees: (1) In any week in which such employee is employed forty (40) hours, eighteen dollars (\$18.00) per week.

(2) In any week in which such employee is employed less than forty (40) hours, fifty cents (50¢) per hour, except that the total wage need not exceed eighteen dollars (\$18.00) per

*† For statutory and source citations, see note to §11940.

week, and except that vocational students who are employed less than forty (40) hours per week, and minors whose working hours are regulated by the California School Code, may be paid forty-five cents (45¢) per hour.

(3) In any week in which such employee is employed longer than forty (40) hours, forty-five cents (45¢) per hour for each hour worked in excess of forty (40) hours up to and including forty-eight (48) hours.

(4) Each day an employee is required to report for work and does report for work, but is not put to work or works four (4) hours or less, the employer shall pay the employee for not less than four (4) hours at fifty cents (50¢) per hour, except that this shall not apply to vocational students or to minors whose working hours are regulated by the California School Code.

(5) On any day in which an employee works a split shift, fifty cents (50¢) for the day in addition to the minimum wage required by this Section.

(6) Where an employee is employed after 10:00 p.m. or before 6:00 a.m., sixty cents (60¢) per hour during such hours.

(7) In no case shall gratuities or tips from patrons, or others, be counted as part of the minimum wage; and the employee shall not be required to report tips for this purpose.

(8) Handicapped employees: Sixty-six and two-thirds per cent (66⅔%) of the wages prescribed in this Section.

(b) Learners: (1) In any week in which such employee is employed forty (40) hours, sixteen dollars (\$16.00) per week.
(2) In any week in which such employee is employed less than forty (40) hours, forty-five cents (45¢) per hour, except that the total wage need not exceed sixteen dollars (\$16.00) per week, and except that vocational students and minors whose working hours are regulated by the California School Code, who are employed less than forty (40) hours per week may be paid forty cents (40¢) per hour.

(3) In any week in which such employee is employed longer than forty (40) hours, forty cents (40¢) per hour for each hour worked in excess of forty (40) hours.

(4) Each day an employee is required to report for work and does report for work, but is not put to work or works four (4) hours or less, the employer shall pay the employee for not less than four (4) hours at forty-five cents (45¢) per hour, except that this shall not apply to vocational students or to minors whose working hours are regulated by the California School Code.

(5) On any day in which an employee works a split shift, fifty cents (50¢) for the day in addition to the minimum wage required by this Section.

(6) Where an employee is employed after 10:00 p.m. or before 6:00 a.m., fifty cents (50¢) per hour during such hours.

*† For statutory and source citations, see page 779.

(7) In no case shall gratuities or tips from patrons, or others, be counted as part of the minimum wage; and the employee shall not be required to report tips for this purpose.

(8) Handicapped employees: Sixty-six and two-thirds per cent (66⅔%) of the wages prescribed in this Section.*†

11220. Commissions. The minimum wage shall be paid whether compensation is measured by time, piece rate, commission, or otherwise. In computing the minimum wage, a commission shall be counted in the pay roll period in which it is earned.*†

11221. Prohibited Wage Deductions. (a) No rule or regulation or condition of employment shall be enforced or required by any employer whereby the employee would be compelled to pay or use for any purpose any portion of the minimum wages herein required to be paid. The foregoing shall apply, but is not limited to, the purchase of tools, equipment and uniforms or to the maintenance, laundering and cleaning of uniforms.

(b) As used in this Order, the term "uniform" includes all garments such as suits, dresses, aprons, collars, cuffs, head-dresses, hats, and all other garments whatsoever which are worn by the employee as a condition of employment. It shall be a presumption that uniforms worn by the employees of any establishment are worn as a condition of employment, if such uniforms are of similar design, color, or material, or form part of the decorative pattern of the establishment or distinguish the employee as an employee of the concern.

(c) No person, firm, or corporation shall make any deduction from the minimum wage of an employee on account of a cash shortage unless it be shown that the shortage is caused by the wilful or dishonest act of the employee, notwithstanding any contract or arrangement to the contrary.

(d) No person, firm or corporation shall make any deduction from the minimum wage of an employee on account of breakage, or loss of equipment by the employee unless it be shown that the breakage, or loss is caused by the wilful or dishonest act of the employee, notwithstanding any contract or arrangement to the contrary.*†

11222. Charges for Meals and Rooms. (a) Employees shall not be required to pay for meals not eaten nor to pay more than the following amounts for a bona fide meal:

Breakfast-----	30 cents	Lunch-----	35 cents
Dinner-----	50 cents		

(b) **Charges for Room:** (1) No employer employing women or minors in the establishments defined under this Order who furnishes rooms for lodging purposes to such employees may charge more than three dollars (\$3.00) per week to a resident employee occupying a room alone.

(2) Where two employees occupy one room, the employer may charge not more than two dollars (\$2.00) per week per person, and separate beds shall be furnished to the employees.*†

*† For statutory and source citations, see note to §11040.

11223. **Keeping of Records.** (a) Every employer shall keep at his place of employment, in a manner approved by the Commission, an accurate record with respect to each employee of the following information:

- (1) Name in full;
 - (2) Home address;
 - (3) Social Security number;
 - (4) Date of birth, if under 18 years of age;
 - (5) Occupation;
 - (6) Learners shall be marked "L"; male minors under 18 years of age shall be marked "M"; and female minors under 18 years of age shall be marked "F"; and students shall be marked "S";
 - (7) Hours employed, which shall show the beginning and ending of hours employed by the employee each work day, which shall be recorded each day at the time the employee begins and ends employment;
 - (8) Total wages paid and total hours employed in each pay roll period;
 - (9) Hours employed and wages paid to each employee shall appear on the same record.
- (b) All required records shall be kept on file for at least one year at the office or establishment at which the employees are employed.
- (c) Every workroom shall be equipped with a clock, plainly visible to all employees.*†

11224. **Filing Reports.** Every employer shall furnish to the Commission, or its duly authorized representative, at its request, any and all reports or information which the Commission may in its judgment require to carry out the purposes of this Order; such reports and information to be verified by oath of the employer or his agent who furnishes the same, if and when so requested by the Commission.*†

11225. **Inspections.** The Commission or duly authorized representatives of the Division of Industrial Welfare shall be allowed free access to any office or establishment where women or minors covered by this Order are employed to investigate and gather data regarding wages, hours, and other conditions and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes; or for the purpose of making any other investigation authorized by Labor Code, Section 1174.*†

11226. **Interpretation of Order.** The Industrial Welfare Commission shall exercise jurisdiction over all questions arising as to the interpretation of this Order.*†

11227. **Penalties.** Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine, or imprisonment, or both.*†

*† For statutory and source citations, see note to §11040.

11228. **Separability.** If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of the Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect, as if the part so held invalid, or unconstitutional, had not been included herein.*†

11229. **Health and Welfare Regulations.** Every employer of women or minors covered by this Order in addition to the foregoing provisions, is required to comply with the provisions of the Industrial Welfare Commission Order prescribing Health and Welfare Regulations for Any Occupation, Trade, or Industry.*†

11230. **Posting of Order.** Every employer shall post a copy of this Order in a conspicuous place where it can be read by the women and minor employees.*†

*† For statutory and source citations, see note to §11040.



INDUSTRIAL WELFARE COMMISSION ORDER WAGES, HOURS, AND WORKING CON IN THE MERCAI

STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF INDUSTRIAL WELFARE

963 Mission Street, San Francisco 3
404 State Building, Los Angeles 12

Anglo Bank Building, Fresno 1
1122 Fourth Avenue, San Diego 1

1540 San Pablo Avenue, Oakland 12

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of authority vested in it by Sections 1171 to 1203, inclusive, of the Labor Code of the State of California, and after public hearing duly had, notice of said hearing having been duly given in the manner provided by law, the Industrial Welfare Commission, upon its own motion, having found and concluded that the Mercantile Industry Order, Number 7 NS, enacted by the Industrial Welfare Commission on April 5, 1943, should be altered and amended;

NOW, THEREFORE, The Industrial Welfare Commission of the State of California does hereby alter and amend said Mercantile Industry Order, Number 7 NS, and does hereby enact its amended Order as follows:

No person, as defined in Section 18 of the Labor Code, shall employ any woman or minor in any establishment or industry in which the wages, hours, or working conditions are not in conformance with the standards hereinafter set forth:

1. APPLICABILITY OF ORDER

This Order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

- (a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$250 per month; or
- (b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. DEFINITIONS

(a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

3. HOURS

(a) No woman or minor shall be employed more than one (1) hour in excess of one day of twenty-four (24) hours

half the usual day's work at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

(c) Every employer shall pay to each employee not less than the applicable minimum wage for hours worked in each payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(d) In no case shall gratuities or tips from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips for this purpose.

(e) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(f) On any day in which an employee works a split shift, sixty-five cents (65¢) per day shall be paid in addition to the minimum wage.

("Split Shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

5. PERMIT FOR HANDICAPPED WORKERS

A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

6. RECORDS

(a) Every employer shall keep at the place of employment, in a manner approved by the Division, accurate information with respect to each employee as follows:

- (1) Name, address, and occupation;
- (2) Birth date, if under eighteen (18) years, and designation as a minor on the payroll record;
- (3) Time record showing actual time employment begins and ends each day, and hours worked daily;
- (4) Total hours worked and total wages paid each payroll period, which shall appear on the same record.

(b) When a piece rate plan is in operation, a schedule of piece work rates must be available in the workroom, and a duplicate piece work record shall be furnished to each employee unless the employer's system of recording is acceptable to the Division.

(c) All required records shall be properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year.

(d) Every workroom shall be equipped with a clock.

7. CASH SHORTAGE OR BREAKAGE

No employer shall make any deduction from the minimum wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.

8. UNIFORMS AND EQUIPMENT

(a) No employee shall be required to contribute directly or indirectly from the minimum wage for the purchase or maintenance of tools, equipment, or uniforms; nor for the laundering and cleaning of uniforms. The term "uniform" includes wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment.

(b) When protective garments, such as gloves, boots, or aprons, are necessary to safeguard the health or prevent injury to an employee, such garments shall be provided and paid for by the employer.

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by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purposes of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

3. HOURS

(a) No woman or minor shall be employed more than eight (8) hours during any one day of twenty-four (24) hours or more than forty-eight (48) hours in any one week. Said eight (8) hours of employment must be performed in a period not to exceed thirteen (13) hours, unless the employee resides at the place of employment.

(b) Nothing in Section 3(a) shall prevent the employment of a woman eighteen (18) years of age or over more than eight (8) hours in any one day or more than forty-eight (48) hours in any one week in an emergency, when the employment is not prohibited by Part 4, Chapter 3, Article 1 of the State Labor Code, provided that such overtime is compensated for at not less than one and one-half times the employee's regular rate of pay.

(c) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 P.M. and 6 A.M. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink, and a suitable, sheltered place shall be provided in which to consume such food and drink.

(NOTE: REFER TO STATE LABOR CODE FOR REGULATIONS GOVERNING SEVENTH DAY EMPLOYMENT AND FOR ADDITIONAL RESTRICTIONS ON WORKING HOURS OF MINORS.)

4. MINIMUM WAGES

(a) Every employer shall pay to each woman or minor employee wages not less than sixty-five cents (65¢) per hour for all hours worked; except that a lower rate, but not less than fifty cents (50¢) per hour, may be paid to:

(1) Women, over 18 years of age, during their first two hundred (200) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment.

(2) Minors, provided that the number of minors employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment.

(b) Each day an employee is required to report for work and does report, but is not put to work or is furnished less than half the usual day's work, said employee shall be paid for

any deduction from the minimum wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.

5. UNIFORMS AND EQUIPMENT

(a) No employee shall be required to contribute directly or indirectly from the minimum wage for the purchase or maintenance of tools, equipment, or uniforms; nor for the laundering and cleaning of uniforms. The term "uniform" includes wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment.

(b) When protective garments, such as gloves, boots, or aprons, are necessary to safeguard the health or prevent injury to an employee, such garments shall be provided and paid for by the employer.

6. MEALS AND LODGING

"Meal" means an adequate serving of a variety of wholesome, nutritious foods.

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room Occupied Alone—\$3.50 per week.

Room Shared—\$2.50 per week.

Apartment—86 2/3% of the ordinary rental value, and in no event more than \$75.00 per month.

Meals: { Breakfast, 30 cents
Lunch, 40 cents
Dinner, 60 cents

Deductions may not be made for meals not eaten and shall be made only for bona fide meals consistent with employee's work shift.

10. MEAL PERIOD

No employee shall be required to work more than five (5) consecutive hours after reporting for work, without a meal period of not less than thirty (30) minutes. An "on duty" meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duty, and such "on duty" meal period shall be counted as hours worked without deduction from wages.

11. REST PERIOD

Every employer shall authorize all employees to take rest periods which, insofar as practicable, shall be in the middle of each work period. Rest periods shall be computed on the basis of ten minutes for four hours working time, or majority fraction thereof. No wage deduction shall be made for such rest periods.

12. DRESSING AND REST ROOMS

(a) Employers shall provide for adequate safe-keeping of employees' outer clothing during working hours, and for their work clothes during non-working hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than twenty (20) and less than fifty (50) there shall

THIS ORDER MUST BE POSTED

Equipment shall be smooth, non-absorbent, and all painted surfaces shall be a light color.

(c) **SUPPLIES.** Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) **LOCATION.** Toilet rooms must be conveniently located on the immediate premises and employees shall not be required to walk up or down more than one flight of stairs to reach such rooms. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

15. FIRST AID

Adequate first aid supplies must be provided and kept clean and sanitary in a dust-proof container.

16. LIFTING

No female employee shall be required or permitted to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the Division.

17. SEATS

Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

18. FLOORS

(a) Unless floors are of wood, cork, rubber composition, or other resilient material, mats or gratings of approved material shall be supplied at all points where women or minors are required to stand at their work.

(b) The floors and stairs of every establishment shall be safe, smooth and tight.

(c) Where wet processes are employed, the floor must be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.

19. CLEANLINESS AND UPKEEP

Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

20. LIGHTING

All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision or glare in the eyes of the workers.

21. VENTILATION

Each room in which women or minors are employed shall be thoroughly ventilated and there shall be not less than 600 cubic feet of air per person.

22. TEMPERATURE

The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 45° F. and, weather permitting, a maximum of 72° F. If, owing to the nature of the process, excessive heat is created in the workroom, special devices shall be installed to reduce

not been included here.

30. POSTING OF ORDER

Every employer shall keep posted, in a conspicuous place, a copy of this Order where it can be read by the women and minor employees.

Dated at Los Angeles, California, this eighth day of February, 1947.

Order 7 NS, enacted April 5, 1943, is hereby rescinded as and of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

JOHN C. PACKARD, Chairman

MAX CARVILL

LEROY E. GOODBODY

MAX STONEMAN

BERNARD G. HEWLETT

RENA BAKWELER, Chief

Division of Industrial Welfare

EXCERPTS FROM STATE LABOR CODE

Section 18. "Person" means any person, association, organization, partnership, business trust, or corporation.

Section 1194. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of misdemeanor and is punishable by a fine of not less than fifty dollars (\$50) or by imprisonment for not less than 30 days, or by both, who does any of the following:

(a) Requires or causes any woman or minor to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission.

(b) Pays or causes to be paid to any woman or minor a wage less than the minimum fixed by an order of the commission.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

Section 1222. No female employee shall be requested or permitted to carry any object weighing 10 pounds or more up or down any stairway or series of stairways that rise for more than five feet from the base thereof.

PART 4. Chapter 3, Article 1

Section 1300. No female shall be employed in any manufacturing, mechanical, or mercantile establishment or industry, laundry, cleaning, drying, or cleaning and drying establishment, hotel, public lodging house, apartment house, hospital, beauty shop, barber shop, place of amusement, restaurant, cafeteria, telegraph or telephone establishment or office, in the operation of elevators in office buildings, or by any express or transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in one week.

Section 1301. No employer shall employ, cause to be employed or permit any female to work any number of hours whatever, with knowledge that such female has theretofore been employed within the same day of 24 hours in any establishment or industry and by any previous employer for a period of time which, combined with the period of time of employment by a previous employer, exceed eight hours in one day or 48 hours in one week. This provision shall not prevent the employment of any female in more than one establishment where the total number of hours worked by her does not exceed eight hours in any one day of 24 hours or 48 hours in one week.

Section 1302. The provisions of this article in relation to hours of employment shall not apply to or affect graduate nurses in hospitals, or the harvesting, curing, cleaning, or drying of any variety of perishable fruit, nut, or vegetable during the periods when it is necessary to harvest, cure, can, or dry fruit, fish, or vegetables to prevent spoilage, nor to employees actually engaged in the processing of biological, human blood products and other such products of laboratories operating under license from either or both the United States Department of the Treasury and the United States Department of Agriculture during such periods when it is necessary to continue the processing of such products to prevent spoilage or deterioration.

Section 1304. Every person, or the agent or officer thereof, employing any female who violates any provision of this article, or who employs, or permits any female to work in violation thereof, is guilty of a misdemeanor, punishable, for a first offense, by a fine of (a) not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100); and for a second or subsequent offense, by a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250), or imprisonment for not more than 90 days, or both.

Day of Rest Law: See Labor Code Sections 510 to 554, inclusive.

Working Hours of Minors: See Labor Code Sections 1291 to 1306, inclusive.

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LEGISLATIVE INTENT SERVICE



IN A CONSPICUOUS PLACE

1352.1 THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO OR AFFECT EXECUTIVES, ADMINISTRATORS, OR PROFESSIONAL WOMEN. NO WOMEN SHALL BE CONSIDERED TO BE EMPLOYED IN AN ADMINISTRATIVE, EXECUTIVE OR PROFESSIONAL CAPACITY UNLESS ONE OF THE FOLLOWING CONDITIONS PREVAIL:

(A) THE EMPLOYEE IS ENGAGED IN WORK WHICH IS PREDOMINATELY INTELLECTUAL, MANAGERIAL, OR CREATIVE; WHICH REQUIRES EXERCISE OF DISCRETION; AND INDEPENDENT JUDGMENT; AND FOR WHICH THE REMUNERATION IS NOT LESS THAN THREE HUNDRED FIFTY DOLLARS (\$350) PER MONTH, OR

(B) THE EMPLOYEE IS LICENSED OR CERTIFIED BY THE STATE OF CALIFORNIA AND IS ENGAGED IN THE PRACTICE OF ONE OF THE FOLLOWING RECOGNIZED PROFESSIONS: LAW, MEDICINE, DENTISTRY, ARCHITECTURE, ENGINEERING OR ACCOUNTING.

No. 7 R, EFFECTIVE JUNE 1, 1947, REGULATING CONDITIONS FOR WOMEN AND MINORS IN TILE INDUSTRY

be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof; except that, when the nature of the work requires standing, one couch must be provided where there are more than ten (10) female employees. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, and heated.

13. DRINKING WATER AND WASHING FACILITIES

(a) Each place of employment shall be supplied with pure drinking water, convenient to employees. Individual paper cups shall be provided or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary. Sufficient soap and either individual cloth or paper towels shall be supplied. Towels used in common are prohibited.

14. TOILET ROOMS

(a) NUMBER. Women's toilet rooms must be so marked and the number of toilets required is as follows:

Where the number of female employees at one time is between	The number of toilets shall be not less than
1-15	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or majority fraction thereof.

* If the entire staff of an establishment numbers less than five (5) and only one toilet is available, it may be used by both sexes.

(b) GENERAL CONSTRUCTION

(1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit.

(3) Toilet compartments shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed. Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and non-absorbent, and all painted surfaces shall be a light color.

(c) SUPPLIES. Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) LOCATION. Toilet rooms must be conveniently located on the immediate premises and employees shall not be required to walk up or down more than one flight of stairs to reach such rooms. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

15. FIRST AID

Adequate first aid supplies must be provided and kept clean and sanitary in a dust-proof container.

16. LIFTING

such excessive heat. Where the nature of the employment will not permit a temperature of 65° F., a heated room shall be provided to which employees may retire for warmth.

23. EXITS

Every floor on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress must be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.

24. ELEVATORS

Elevator service shall be provided so that no female employees shall be required to walk up or down more than two flights of stairs to reach her place of employment.

25. EXEMPTIONS

If, in the opinion of the Commission after due investigation, it is found that the enforcement of any provision contained in Sections 10 to 24 of this Order, would not materially increase the comfort, health, or safety of employees and would work undue hardship on the employer, exemptions may be made at the discretion of said Commission. Such exemptions must be in writing to be effective and can be revoked after reasonable notice is given in writing. Applications for exemptions shall be made by the employer to the Commission in writing.

26. FILING REPORTS

Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order; such reports and information to be verified if and when so requested.

27. INSPECTION

The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

28. PENALTIES

Failure, refusal or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine, or imprisonment, or both.

Every employer who employs a woman, eighteen (18) years of age or over, in violation of Section 3 of this Order, shall pay said employee a penalty of double the employee's regular rate of pay for all hours worked in violation thereof.

29. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

30. POSTING OF ORDER

Every employer shall keep posted, in a conspicuous place, a copy of this Order where it can be read by the women and minor employees.

Dated at Los Angeles, California, this eighth day of February, 1947.

Order 7 NS, enacted April 3, 1943, is hereby rescinded as and of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

JOHN C. PACKARD, Chairman
MAN CARVELL
LEROY E. GOODBODY
MAX STONEMAN
ELEANOR C. HEWLETT

RENA BREWSTER, Chief

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11196. Seats. Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.*†

11197. Floors. (a) Unless floors are of wood, cork, rubber composition, or other resilient material, mats or gratings of approved material shall be supplied at all points where women or minors are required to stand at their work.

(b) The floors and stairs of every establishment shall be safe, smooth and tight.

(c) Where wet processes are employed, the floor must be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.*†

11198. Cleanliness and Upkeep. Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.*†

11199. Lighting. All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision or glare in the eyes of the workers.*†

11200. Ventilation. Each room in which women or minors are employed shall be thoroughly ventilated and there shall be not less than 500 cubic feet of air per person.*†

11201. Temperature. The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 65° F. and, weather permitting, a maximum of 72° F. If, owing to the nature of the process, excessive heat is created in the workroom, special devices shall be installed to reduce such excessive heat. Where the nature of the employment will not permit a temperature of 65° F., a heated room shall be provided to which employees may retire for warmth.*†

11202. Exits. Every floor on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress must be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.*†

11203. Elevators. Elevator service shall be provided so that no female employee shall be required to walk up or down more than two flights of stairs to reach her place of employment.*†

11204. Exemptions. If, in the opinion of the Commission after due investigation, it is found that the enforcement of any provision contained in Sections 10 to 24 of this Order, would not materially increase

*† For statutory and source citations, see note to §11040.



(Register 9-9-18-47)

the comfort, health, or safety of employees and would work undue hardship on the employer, exemptions may be made at the discretion of said Commission. Such exemptions must be in writing to be effective and can be revoked after reasonable notice is given in writing. Applications for exemptions shall be made by the employer to the Commission in writing.*†

11205. Filing Reports. Every employer shall furnish to the Commission and to the division any and all reports or information which may be required to carry out the purpose of this Order; such reports and information to be verified if and when so requested.*†

11206. Inspection. The Commission and duly authorized representatives of the division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.*†

11207. Penalties. Failure, refusal or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine, or imprisonment, or both.

Every employer who employs a woman, eighteen (18) years of age or over, in violation of Section 11182 of this Order, shall pay said employee a penalty of double the employee's regular rate of pay for all hours worked in violation thereof.*†

11208. Separability. If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.*†

11209. Posting of Order. Every employer shall keep posted, in a conspicuous place, a copy of this Order where it can be read by the women and minor employees.*† (Order No. 1R, filed 9-5-47.)

Article 8. Mercantile Industry

(Revised Order No. 7R, Effective June 1, 1947)

11215. Applicability of Order. This Order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative, which requires exercise of discretion and

*† For statutory and source citations, see note to §11040.

independent judgment; and for which the remuneration is not less than \$250 per month; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.*†

11216. Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail.

(d) "Employ" means to engage, suffer, or permit to work

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.*†

11217. Hours. (a) No woman or minor shall be employed more than eight (8) hours during any one day of twenty-four (24) hours or of employment must be performed in a period not to exceed thirteen (13) hours, unless the employee resides at the place of employment.

(b) Nothing in Section 11217(a) shall prevent the employment of a woman eighteen (18) years of age or over, more than eight (8) hours in any one day or more than forty-eight (48) hours in any one week in an emergency, when the employment is not prohibited by Part 4, Chapter 3, Article 1 of the State Labor Code, provided that such overtime is compensated for at not less than one and one-half times the employee's regular rate of pay.

(c) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink, and a suitable, sheltered place shall be provided in which to consume such food and drink.

(Note: Refer to State Labor Code for regulations governing seventh day employment and for additional restrictions on working hours of minors.) *†

*† For statutory and source citations, see note to §11040.



LEGISLATIVE INTENT SERVICE

(Register 9-9-18-47)

11218. Minimum Wages. (a) Every employer shall pay to each woman or minor employee wages not less than sixty-five cents (65¢) per hour for all hours worked; except that a lesser rate, but not less than fifty cents (50¢) per hour, may be paid to:

(1) Women, over 18 years of age, during their first two hundred (200) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment.

(2) Minors, provided that the number of minors employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment.

(b) Each day an employee is required to report for work and does report, but is not put to work or is furnished less than half the usual day's work, said employee shall be paid for half the usual day's work at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

(c) Every employer shall pay to each employee not less than the applicable minimum wage for hours worked in each pay roll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(d) In no case shall gratuities or tips from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips for this purpose.

(e) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(f) On any day in which an employee works a split shift, sixty-five cents (65¢) per day shall be paid in addition to the minimum wage.

("Split Shift" means a work schedule which is interrupted by nonworking periods other than bona fide rest or meal periods.) *†

11219. Permit for Handicapped Workers. A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.*†

11220. Records. (a) Every employer shall keep at the place of employment, in a manner approved by the Division, accurate information with respect to each employee as follows:

- (1) Name, address, and occupation;
- (2) Birth date, if under eighteen (18) years, and designation as a minor on the pay roll record;
- (3) Time record showing actual time employment begins and ends each day, and hours worked daily;

*† For statutory and source citations, see note to §11040.

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- (4) Total hours worked and total wages paid each pay roll period, which shall appear on the same record.
- (b) When a piece rate plan is in operation, a schedule of piece work rates must be available in the workroom, and a duplicate piece work record shall be furnished to each employee, and a duplicate piece work of recording is acceptable to the Division.
- (c) All required records shall be properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year.
- (d) Every workroom shall be equipped with a clock.*†

11221. Cash Shortage or Breakage. No employer shall make any deduction from the minimum wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.*†

11222. Uniforms and Equipment. (a) No employee shall be required to contribute directly or indirectly from the minimum wage for the purchase or maintenance of tools, equipment, or uniforms; nor for the laundering and cleaning of uniforms. The term "uniform" includes by the employer to be worn by the employee as a condition of employment necessary to safeguard the health or prevent injury to an employee, such garments shall be provided and paid for by the employer.*†

(b) When protective garments, such as gloves, boots, or aprons, are necessary to safeguard the health or prevent injury to an employee, such garments shall be provided and paid for by the employer.*†

11223. Meals and Lodging. "Meal" means an adequate serving of a variety of wholesome, nutritious foods.

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room occupied alone—\$3.50 per week
Room shared—\$2.50 per week
Apartment—66⅔ percent of the ordinary rental value, and in no event more than \$75 per month.

Meals: { Breakfast, 30 cents
 { Lunch, 40 cents
 { Dinner, 60 cents

Deductions may not be made for meals not eaten and shall be made only for bona fide meals consistent with employee's work shift.*†

11224. Meal Period. No employee shall be required to work more than five (5) consecutive hours after reporting for work, without a meal period of not less than thirty (30) minutes. An "on duty" meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duty, and such "on duty" meal period shall be counted as hours worked without deduction from wages.*†

*† For statutory and source citations, see note to §11040.

11225. Rest Period. Every employer shall authorize all employees to take rest periods which, insofar as practicable, shall be in the middle of each work period. Rest periods shall be computed on the basis of 10 minutes for four hours working time, or majority fraction thereof. No wage deduction shall be made for such rest periods.*†

11226. Dressing and Rest Rooms. (a) Employers shall provide for adequate safe-keeping of employees' outer clothing during working hours, and for their work clothes during nonworking hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than twenty (20) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof; except that, when the nature of the work requires standing, one couch must be provided where there are more than ten (10) female employees. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, and heated.*†

11227. Drinking Water and Washing Facilities. (a) Each place of employment shall be supplied with pure drinking water, convenient to employees. Individual paper cups shall be provided or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary. Sufficient soap and either individual cloth or paper towels shall be supplied. Towels used in common are prohibited.*†

11228. Toilet Rooms. (a) Number. Women's toilet rooms must be so marked and the number of toilets required is as follows:

Where the number of females employed at one time is between:	The number of toilets shall be not less than:
1-15*	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or majority fraction thereof.

* If the entire staff of an establishment numbers less than five (5) and only one toilet is available, it may be used by both sexes.

*† For statutory and source citations, see note to §11040.

(b) **General Construction.** (1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit.

(3) Toilet compartments shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed. Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and nonabsorbent, and all painted surfaces shall be a light color.

(c) **Supplies.** Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) **Location.** Toilet rooms must be conveniently located on the immediate premises and employees shall not be required to walk up or down more than one flight of stairs to reach such rooms. In existing establishments when, in the judgment of the division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.*†

11239. **First Aid.** Adequate first aid supplies must be provided and kept clean and sanitary in a dust-proof container.*†

11230. **Lifting.** No female employee shall be required or permitted to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the division.*†

11231. **Seats.** Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.*†

11232. **Floors.** (a) Unless floors are of wood, cork, rubber composition, or other resilient material, mats or gratings of approved material shall be supplied at all points where women or minors are required to stand at their work.

(b) The floors and stairs of every establishment shall be safe, smooth and tight.

(c) Where wet processes are employed, the floor must be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.*†

*† For statutory and source citations, see note to §11040.



11233. **Cleanliness and Upkeep.** Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.*†

11234. **Lighting.** All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision or glare in the eyes of the workers.*†

11235. **Ventilation.** Each room in which women or minors are employed shall be thoroughly ventilated and there shall be not less than 500 cubic feet of air per person.*†

11236. **Temperature.** The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 65° F. and, weather permitting, a maximum of 72° F. If, owing to the nature of the process, excessive heat is created in the workroom, special devices shall be installed to reduce such excessive heat. Where the nature of the employment will not permit a temperature of 65° F., a heated room shall be provided to which employees may retire for warmth.*†

11237. **Exits.** Every floor on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress must be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.*†

11238. **Elevators.** Elevator service shall be provided so that no female employee shall be required to walk up or down more than two flights of stairs to reach her place of employment.*†

11239. **Exemptions.** If, in the opinion of the Commission after due investigation, it is found that the enforcement of any provision contained in Sections 10 to 24 of this Order, would not materially increase the comfort, health, or safety of employees and would work undue hardship on the employer, exemptions may be made at the discretion of said Commission. Such exemptions must be in writing to be effective and can be revoked after reasonable notice is given in writing. Applications for exemptions shall be made by the employer to the Commission in writing.*†

11240. **Filing Reports.** Every employer shall furnish to the Commission and to the division any and all reports or information which may be required to carry out the purpose of this Order; such reports and information to be verified if and when so requested.*†

11241. **Inspection.** The Commission and duly authorized representatives of the division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices.

*† For statutory and source citations, see note to §11040.

and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.*†

11242. Penalties. Failure, refusal or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine, or imprisonment, or both. Every employer who employs a woman, eighteen (18) years of age or over, in violation of Section 11217 of this Order, shall pay said employee a penalty of double the employee's regular rate of pay for all hours worked in violation thereof.*†

11243. Separability. If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.*†

11244. Posting of Order. Every employer shall keep posted, in a conspicuous place, a copy of this Order where it can be read by the women and minors employees.*† (Order No. 7R, filed 9-5-47.)

*† For statutory and source citations, see note to §11040.

Article 9. Motion Picture Industry
(Order No. 16A. Effective April 11, 1981)

11250. Employer Defined. The term "employer" as used herein shall mean any person, firm, or corporation employing women or minor extras in the motion picture industry.

Minor Defined. The term "minor" as used herein shall mean any person of either sex under the age of eighteen (18) years.

Extra Defined. The term "extra" as used herein shall mean any woman or minor who is employed to act, sing, dance, or otherwise perform in the production of motion pictures at a wage of fifteen dollars (\$15.00) or under per day or a wage of sixty-five dollars (\$65.00) or under per week.*†

11251. Hours of Labor. No employer shall employ, or suffer, or permit any woman extra receiving a wage of fifteen dollars (\$15.00) or under per day or a wage of sixty-five dollars (\$65.00) or under per week to be employed more than eight (8) hours in any one day of twenty-four (24) hours, except that in case of emergency women may be employed in excess of eight (8) hours, provided, that in no time of said emergency shall the number of hours, including meal periods, in any one day of twenty-four (24) hours exceed sixteen (16) hours from the time women extras are required to and do report until dismissed.*†

11252. Overtime Hours. No employer shall employ, or suffer, or permit any woman extra receiving a wage of fifteen dollars (\$15.00) or under per day or a wage of sixty-five dollars (\$65.00) or under per week to be employed more than eight (8) hours in any one day of twenty-four (24) hours, except that in case of emergency women may be employed in excess of eight (8) hours; provided, that for any work performed in case of emergency in excess of eight (8) hours no woman shall be paid less than the following overtime scale:

(a) Women employed on a daily basis:

- (1) For every two (2) hours or fraction thereof after eight (8) hours and up to ten (10) hours, not less than an additional one-quarter of the daily wage paid.
- (2) For every two (2) hours or fraction thereof after ten (10) hours and up to twelve (12) hours, not less than an additional one-half of the daily wage paid.
- (3) For every two (2) hours or fraction thereof after twelve (12) hours and up to fourteen (14) hours, not less than an additional three-quarters of the daily wage paid.
- (4) For every two (2) hours or fraction thereof after fourteen (14) hours and up to sixteen (16) hours, not less than an additional daily wage.

(b) Women employed on a weekly basis:

- (1) For every two (2) hours or fraction thereof after eight (8) hours and up to ten (10) hours, not less than an additional one-quarter of one-sixth of the weekly wage paid.

*† For statutory and source citations, see note to §11040.

ORDER NUMBER 1-52

INDUSTRIAL WELFARE COMMISSION, ORDER

WAGES, HOURS, AND WORKING CO IN THE MANUFACTURING AND MERCHANDISE

COPERS
MANUFACTURING
and
MERCHANDISE

(REPLACING FORMER ORDERS 1R AND 7R)
STATE OF CALIFORNIA—DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL WELFARE

963 Mission Street, San Francisco 3.
907 State Building, Los Angeles 12
1531 Webster Street, Oakland 12

37 North Fulton Street, Fresno 1
210 Jergins Trust Building, Long Beach 2
1521 Fourth Avenue, San Diego 1

419 Forum Building, Sacramento

To Whom It May Concern:

TAKE NOTICE: That pursuant to and by virtue of authority vested in it by Sections 1171 to 1204, inclusive, of the Labor Code of the State of California, and after public hearing duly had, notice of said hearing having been duly given in the manner provided by law, the Industrial Welfare Commission, upon its own motion, having found and concluded that the Manufacturing Industry Order, Number 1R, and the Mercantile Industry Order, Number 7R, enacted by the Industrial Welfare Commission on February 8, 1947, should be altered and amended:

NOW, THEREFORE, The Industrial Welfare Commission of the State of California does hereby alter and amend said Manufacturing Industry Order, Number 1R, and said Mercantile Industry Order, Number 7R, and does hereby enact its amended Order as follows:

No person, as defined in Section 18 of the Labor Code, shall employ any woman or minor in any establishment or industry in which the wages, hours, or working conditions are not in conformance with the standards hereinafter set forth:

1. APPLICABILITY OF ORDER

This Order shall apply to all women and minors employed in the manufacturing industry or in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

- The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$350 per month; or
- The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. DEFINITIONS

(a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Manufacturing Industry" means any industry, business, or establishment operated for the purpose of preparing, producing, making, altering, repairing, finishing, processing, inspecting, handling, assembling, wrapping, bottling, or packaging goods, articles, or commodities, in whole or in part; EXCEPT when such activities are covered by Orders in the:

Canning, Preserving and Freezing Industry;
Industries Handling Farm Products After Harvest; or
Motion Picture Producing Industry.

"Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

3. HOURS

- No woman or minor shall be employed more than eight (8) hours during any one day of twenty-four (24) hours nor more than six (6) days in any one week, except under the fol-

applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(c) In no case shall gratuities or tips from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips for this purpose.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, seventy-five cents (75¢) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

("Split Shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

3. REPORTING TIME PAY

Each day 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 day's work, the employee shall be paid for half the usual day's work, but in no event for less than two hours, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

4. PERMIT FOR HANDICAPPED WORKERS

A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. RECORDS

(a) Every employer shall keep at the place of employment, in a manner approved by the Division, accurate information with respect to each employee as follows:

- Full name, home address, and occupation.
- Birth date, if under eighteen (18) years, and designation as a minor on the payroll record.
- Time records showing all in-and-out time which shall be recorded when it occurs, and also total hours worked each day. Meal periods during which operations cease and authorized rest periods need not be recorded.

(d) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. The total hours worked in the payroll period shall appear on the same record as wages paid for that period.

(b) All required records shall be properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year.

(c) When a piece rate or incentive plan is in operation, a schedule of rates must be available in the workroom. An accurate production record shall be furnished to each employee unless the employer's system of recording is acceptable to the Division.

(d) Clocks shall be provided in all major work areas.

8. CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the minimum wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.

9. UNIFORMS AND EQUIPMENT

(a) No employee shall be required to contribute directly or indirectly from the minimum wage for the purchase or maintenance of tools, equipment, or uniforms; nor for the laundering and cleaning of uniforms. The term "uniform" includes wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment.

(b) When protective garments are required by the employer, or are necessary to safeguard the health, or prevent injury to an employee, such garments shall be provided and paid for by the employer.

10. MEALS AND LODGING

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

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an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

3. HOURS

(a) No woman or minor shall be employed more than eight (8) hours during any one day of twenty-four (24) hours nor more than six (6) days in any one week, except under the following conditions:

- (1) When overtime employment is not prohibited by Sections 1350-1354* of the Labor Code of the State of California, women eighteen (18) years of age or over may, in case of emergency, be employed in excess of eight (8) hours in one day or in excess of six (6) days in one week provided the employee is compensated for all hours worked in excess of eight (8) hours in one day and for all hours worked on the seventh (7th) day [except such seventh day employment as is authorized in subsection (a) (2) hereof] at not less than one and one-half (1½) times the employee's regular rate of pay.
- (2) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

* See last column for "Excerpts from Labor Code," Sections 1350-1354.

(b) The eight (8) hours of employment shall be performed within a period of not more than thirteen (13) hours and, except when there is a bona fide change of shift, eleven (11) hours shall elapse between the end of one work day of the employee and the beginning of the next.

(c) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 P.M. and 6 A.M. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable, sheltered place shall be provided in which to consume such food and drink.

NOTE: REFER TO STATE LABOR CODE FOR ADDITIONAL RESTRICTIONS ON WORKING HOURS OF MINORS.

4. MINIMUM WAGES

(a) Every employer shall pay to each woman and minor employee wages not less than seventy-five cents (75¢) per hour for all hours worked; except that a lesser rate, but not less than sixty cents (60¢) per hour, may be paid to:

- (1) Women, eighteen (18) years of age or over, during their first two hundred (200) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one learner at said lesser rate.
- (2) Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one minor at said lesser rate.

(b) Every employer shall pay to each employee, on the established pay day for the period involved, not less than the

of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the culpable negligence of the employee.

9. UNIFORMS AND EQUIPMENT

(a) No employee shall be required to contribute directly or indirectly from the minimum wage for the purchase or maintenance of tools, equipment, or uniforms; nor for the laundering and cleaning of uniforms. The term "uniform" includes wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment.

(b) When protective garments are required by the employer, or are necessary to safeguard the health, or prevent injury to an employee, such garments shall be provided and paid for by the employer.

10. MEALS AND LODGING

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

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room Occupied Alone—\$4 per week.

Room Shared—\$3 per week.

Apartment—Two-thirds (⅔) of the ordinary rental value, and in no event more than \$86 per month.

Meals: { Breakfast, 35 cents
Lunch, 45 cents
Dinner, 70 cents

Deductions may not be made for meals not eaten and shall be made only for bona fide meals consistent with employee's work shift.

11. MEAL PERIODS

No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived. An "on duty" meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duty, and time spent for such "on duty" meal period shall be counted as time worked.

12. REST PERIODS

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 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 (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

13. DRESSING AND REST ROOMS

(a) Employers shall provide for adequate safekeeping of employees' outer clothing during working hours, and for their work clothes during non-working hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than twenty (20) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof; except that, when the nature of the work requires standing, one couch must be provided where there are more than ten (10) female employees. Beds in hospital rooms may not be counted in the number of required couches.

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THIS ORDER MUST BE POSTED

CONDITIONS FOR WOMEN AND MINORS IN THE MERCANTILE INDUSTRIES

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, and heated.

14. DRINKING WATER AND WASHING FACILITIES

(a) Each place of employment shall be supplied with pure drinking water, convenient to employees. Individual paper cups shall be provided or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary.

(c) Sufficient soap and either individual cloth or paper towels shall be supplied. Towels used in common are prohibited.

15. TOILET ROOMS

(a) NUMBER. Women's toilet rooms must be so marked and the number of toilets required is as follows:

Where the number of female employees at one time is between:	The number of toilets shall be not less than:
1-15	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or majority fraction thereof.

* If the entire staff of an establishment numbers less than five (5) and only one toilet is available, it may be used by both sexes.

(b) GENERAL CONSTRUCTION

(1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit. Each toilet compartment door shall be provided with a latch or bolt.

(3) The walls of toilet rooms shall extend to a ceiling and the room shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floors shall be of cement, terrazzo, tile, glazed brick or other composition which is impervious to moisture and the angle formed by the floor and wall shall be sealed or coved.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and non-absorbent, and all painted surfaces shall be a light color.

(c) SUPPLIES. Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) LOCATION. Toilet rooms must be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's work place unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) MAINTENANCE. Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

16. FIRST AID

Adequate first aid supplies must be provided and kept clean and sanitary in a dust-proof container.

17. LIFTING

No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the Division.

(See last column for "Excerpts from Labor Code," Section 1392.)

18. SEATS

Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

19. FLOORS

(a) Unless the surface of the floor is of wood, cork, rubber

23. ELEVATORS

When females are employed on the fourth or higher floors, adequate elevator service must be provided.

24. EXEMPTIONS

If, in the opinion of the Commission after due investigation, it is found that the enforcement of any provision contained in Sections 11 to 23 of this Order would not materially increase the comfort, health, or safety of employees and would work undue hardship on the employer, exemptions may be made at the discretion of said Commission. Such exemptions must be in writing to be effective and can be revoked after reasonable notice is given in writing. Applications for exemptions shall be made by the employer to the Commission in writing.

27. FILING REPORTS

Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

28. INSPECTION

The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

29. PENALTIES

Failure, refusal or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

30. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. POSTING OF ORDER

Every employer shall keep posted, in a conspicuous place, a copy of this Order where it can be read by the women and minor employees.

Dated at Los Angeles, California, this sixteenth day of May, 1952.

Orders 1R and 7R, enacted February 8, 1947, are hereby rescinded as and of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

LEROY E. GOODBODY, *Chairman*
MAX CARVELL
ELEANOR C. HEWLETT
DANIEL E. KOSHLAND
MAX STONEMAN

MARGARET KAY ANDERSON, *Chief*
Division of Industrial Welfare

EXCERPTS FROM STATE LABOR CODE

Section 18. "Person" means any person, association, organization, partnership, business trust, or corporation.

Section 1199. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50) or by imprisonment for not less than 30 days, or by both, who does any of the following:

(a) Requires or causes any woman or minor to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission.

(b) Pays or causes to be paid to any woman or minor a wage less than the minimum fixed by an order of the commission.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

Section 1232. No female employee shall be requested or permitted to carry any object weighing 10 pounds or more up or down any stairway or series of stairways that rise for more than five feet from the base thereof.

Eight Hour Laws

Section 1250. No female shall be employed in any manufacturing, mechanical, or mercantile establishment or industry, laundry, cleaning, drying, or cleaning and dyeing establishment, hotel, public lodging house, apartment house, hospital, beauty shop, barber shop, place of amusement, restaurant, cafeteria, telegraph or telephone establishment or office, in the operation of elevators in office buildings, or by any express or transportation company in this State more than eight hours during any one day of 24 hours or more than 48 hours in one week.

Section 1291. No employer shall employ, cause to be employed or permit any female to work any number of hours whatever, with knowledge that such female has theretofore been employed within the same day of 24 hours in any establishment or industry and by any

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(e) **MAINTENANCE.** Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

16. FIRST AID

Adequate first aid supplies must be provided and kept clean and sanitary in a dust-proof container.

17. LIFTING

No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the Division.

(See last column for "Excerpts from Labor Code," Section 1312.)

18. SEATS

Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

19. FLOORS

(a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth and tight.

(c) Where wet processes are employed, the floor must be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.

20. CLEANLINESS AND UPKEEP

Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

21. LIGHTING

All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision or glare in the eyes of the workers.

22. VENTILATION

Each room in which women or minors are employed shall be thoroughly ventilated.

23. TEMPERATURE

The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 65° F., and, weather permitting, a maximum of 75° F. If, owing to the nature of the process, excessive heat is created in the workroom, special devices shall be installed to reduce such excessive heat. Where the nature of the employment will not permit a temperature of 65° F., a heated room shall be provided to which employees may retire for warmth.

24. EXITS

Except as otherwise herein provided, every floor, mezzanine, or balcony on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress must be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unoblocked during working hours.

In facilities constructed prior to the effective date of this Order, the above requirement of two exits shall not apply to a first floor, second floor, mezzanine, or balcony when all the following conditions are met: The premises cannot be altered to provide a second exit; an adequate number of properly maintained fire extinguishers are readily available; and the activities carried on in the establishment do not create a fire hazard.

(For other regulations regarding exits, see General Safety Orders, Title 8, Section 2244, California Administrative Code.)

(b) Pays or causes to be paid to any woman or minor a wage less than the minimum fixed by an order of the commission.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

Section 1322. No female employee shall be requested or permitted to carry any object weighing 16 pounds or more up or down any stairway or series of stairways that rise for more than five feet from the base thereof.

Night Hour Laws

Section 1326. No female shall be employed in any manufacturing, mechanical, or mercantile establishment or industry, laundry, cleaning, dyeing, or cleaning and dyeing establishment, hotel, public lodging house, apartment house, hospital, beauty shop, barber shop, place of amusement, restaurant, cafeteria, telegraph or telephone establishment or office, in the operation of elevators in office buildings, or by any express or transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in one week.

Section 1321. No employer shall employ, cause to be employed or permit any female to work any number of hours whatever, with knowledge that such female has theretofore been employed within the same day of 24 hours in any establishment or industry and by any previous employer for a period of time which, combined with the period of time of employment by a previous employer, exceed eight hours in one day or 48 hours in one week. This provision shall not prevent the employment of any female in more than one establishment where the total number of hours worked by her does not exceed eight hours in any one day of 24 hours or 48 hours in one week.

Section 1323. The provisions of this article in relation to hours of employment shall not apply to or affect graduate nurses in hospitals, or clinical laboratory technologists or clinical laboratory technicians in hospitals during an emergency; provided, that any such technologist or technician who, by reason of an emergency, is permitted or required by her employer to work in excess of the maximum hours prescribed by other provisions of this article, shall be paid, for time worked in excess of such hours, at a rate of not less than one and a half times her straight time rate of pay, nor the harvesting, curing, canning, or drying of any variety of perishable fruit, fish, or vegetable during the periods when it is necessary to harvest, cure, can, or dry fruit, fish, or vegetables to prevent spoiling, nor to employees actually engaged in the processing of biologicals, human blood products and other such products of laboratories operating under license from either or both the United States Department of the Treasury and the United States Department of Agriculture during such periods when it is necessary to continue the processing of such products to prevent spoilage or deterioration. Emergency within the meaning of this section means an unpredictable or unavoidable occurrence at unscheduled intervals, requiring immediate action. The exemption provided herein shall be effective only in cases where the employer, upon learning of the emergency, exercises reasonable diligence to provide immediately relief for the employees required to work over the prescribed number of hours. (Amended by Stats. 1943, Ch. 540, and by Stats. 1953, Ch. 1254.)

Section 1322.1. The provisions of this article shall not apply to or affect executives, administrators, or professional women. No woman shall be considered to be employed in an administrative, executive or professional capacity unless one of the following conditions prevail:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; which requires exercise of discretion and independent judgment; and for which the remuneration is not less than three hundred fifty dollars (\$350) per month; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: Law, medicine, dentistry, architecture, engineering or accounting.

Section 1324. Every person, or the agent or officer thereof, employing any female who violates any provision of this article, or who employs or permits any female to work in violation thereof, is guilty of a misdemeanor, punishable, for a first offense, by a fine of (a) not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100); and for a second or subsequent offense, by a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250), or imprisonment for not more than 60 days, or both.

INDUSTRIAL HOMEWORK

Section 2532. No employer shall deliver any materials or articles for manufacture by industrial homework to any person in this State unless the employer so delivering them or his agent, if the employee is not a resident of this State, has obtained a valid employer's permit from the division. A permit shall be issued upon payment to the division of a fee of fifty dollars (\$50) and shall be valid for the remainder of the calendar year for which it is issued, unless sooner revoked or suspended. Application for a permit shall be made in such form as the division may by regulation prescribe. The division may revoke or suspend an employer's permit upon a finding that the employer has violated this part or has failed to comply with any provision of the permit.

Working Hours of Minors See Labor Code Sections 1382 to 1386, inclusive.



D IN A CONSPICUOUS PLACE

Article 7. Manufacturing and Mercantile Industries

(Order No. 1-52, effective August 1, 1952)

11180. Order Governing Wages, Hours, and Working Conditions for Women and Minors in the Manufacturing and Mercantile Industries. (1) Applicability of Order. This order shall apply to all women and minors employed in the manufacturing industry or in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$350 per month; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

NOTE: Authority cited for Article 7: Sections 1171 through 1204, Labor Code.

History: 1. Revised Article 7 filed 9-5-47 (Register 9).

2. Repealer of Article 7 (§§ 11180 through 11204) and Article 8 (§§ 11215 through 11244) and new Article 7 (§ 11180) filed 5-26-52, designated to be effective 8-1-52 (Register 28, No. 6).

(2) Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Manufacturing industry" means any industry, business, or establishment operated for the purpose of preparing, producing, making, altering, repairing, finishing, processing, inspecting, handling, assembling, wrapping, bottling, or packaging goods, articles, or commodities, in whole or in part;

Except when such activities are covered by orders in the: canning, preserving and freezing industry; industries handling farm products after harvest; or motion picture producing industry.

"Mercantile industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(Register 28, No. 6-5-31-52)

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this order, a male or female person under the age of eighteen (18) years.

(h) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(3) Hours. (a) No woman or minor shall be employed more than eight (8) hours during any one day of twenty-four (24) hours nor more than six (6) days in any one week, except under the following conditions:

1. When overtime employment is not prohibited by Sections 1350-1354 of the Labor Code of the State of California, women eighteen (18) years of age or over may, in case of emergency, be employed in excess of eight (8) hours in one day or in excess of six (6) days in one week provided the employee is compensated for all hours worked on the seventh (7th) day in one day and for all hours worked on the seventh (7th) day [except such seventh day employment as is authorized in subsection (a) (2) hereof] at not less than one and one-half (1½) times the employee's regular rate of pay.

2. An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(b) The eight (8) hours of employment shall be performed within a period of not more than thirteen (13) hours and, except when there is a bona fide change of shift, eleven (11) hours shall elapse between the end of one work day of the employee and the beginning of the next.

(c) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable, sheltered place shall be provided in which to consume such food and drink.

NOTE: REFER TO STATE LABOR CODE FOR ADDITIONAL RESTRICTIONS ON WORKING HOURS OF MINORS.

(4) Minimum Wages. (a) Every employer shall pay to each woman and minor employee wages not less than seventy-five cents (75¢) per hour for all hours worked; except that a lesser rate but not less than sixty cents (60¢) per hour may be paid to:

1. Women, eighteen (18) years of age or over, during their first two hundred (200) hours of employment in skilled or

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semiskilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one learner at said lesser rate.

2. Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one minor at said lesser rate.

(b) Every employer shall pay to each employee, on the established pay day for the period involved, not less than the applicable minimum wage for all hours worked in the pay roll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(c) In no case shall gratuities or tips from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips for this purpose.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, seventy-five cents (75¢) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

("Split Shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

(5) Reporting Time Pay. Each day 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 day's work, the employee shall be paid for half the usual day's work, but in no event for less than two hours, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

(6) Permit for Handicapped Workers. A permit may be issued by the commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

(7) Records. (a) Every employer shall keep at the place of employment, in a manner approved by the division, accurate information with respect to each employee as follows:

1. Full name, home address, and occupation.
2. Birth date, if under eighteen (18) years, and designation as a minor on the pay roll record.

3. Time records showing all in-and-out time which shall be recorded when it occurs, and also total hours worked each day. Meal periods during which operations cease and authorized rest periods need not be recorded.

4. Total wages paid each pay roll period, including value of board, lodging, or other compensation actually furnished to the employee. The total hours worked in the pay roll period shall appear on the same record as wages paid for that period.

(b) All required records shall be properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year.

(c) When a piece rate or incentive plan is in operation, a schedule of rates must be available in the workroom. An accurate production record shall be furnished to each employee unless the employer's system of recording is acceptable to the division.

(d) Clocks shall be provided in all major work areas.

(8) Cash Shortage and Breakage. No employer shall make any deduction from the minimum wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.

(9) Uniforms and Equipment. (a) No employee shall be required to contribute directly or indirectly from the minimum wage for the purchase or maintenance of tools, equipment, or uniforms; nor for the laundering and cleaning of uniforms. The term "uniform" includes the wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment, or (b) When protective garments are required by the employer, or are necessary to safeguard the health, or prevent injury to an employee, such garments shall be provided and paid for by the employer.

(10) Meals and Lodging. "Meal" means an adequate well-balanced serving of a variety of wholesome, nutritious foods. "Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room occupied alone—\$4 per week

Room shared—\$8 per week

Apartment—Two-thirds ($\frac{2}{3}$) of the ordinary rental value, and in no event more than \$86 per month.

Meals: { Breakfast, 35 cents
Lunch, 45 cents
Dinner, 70 cents

(15) Toilet Rooms. (a) Number. Women's toilet rooms must be so marked and the number of toilets required is as follows:

Where the number of females employed at one time is between:	The number of toilets shall be not less than:
1-15*	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or majority fraction thereof.

(b) General Construction. 1. Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

2. The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit. Each toilet compartment door shall be provided with a latch or bolt.

3. The walls of toilet rooms shall extend to a ceiling and the room shall be thoroughly ventilated to the outside air and shall be adequately lighted.

4. Floors shall be of cement, terrazzo, tile, glazed brick or other composition which is impervious to moisture and the angle formed by the floor and wall shall be sealed or coved.

5. Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and nonabsorbent, and all painted surfaces shall be a light color.

(c) Supplies. Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) Location. Toilet rooms must be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's work place unless adequate elevator service is available. In existing establishments when, in the judgment of the division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) Maintenance. Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

* If the entire staff of an establishment numbers less than five (5) and only one toilet is available, it may be used by both sexes.

Deductions may not be made for meals not eaten and shall be made only for bona fide meals consistent with employee's work shift.

(11) Meal Periods. No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived. An "on duty" meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duty, and time spent for such "on duty" meal period shall be counted as time worked.

(12) Rest Periods. 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 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 (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(13) Dressing and Rest Rooms. (a) Employers shall provide for adequate safekeeping of employees' outer clothing during working hours, and for their work clothes during nonworking hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than twenty (20) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof; except that, when the nature of the work requires standing, one couch must be provided where there are more than ten (10) female employees. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, and heated.

(14) Drinking Water and Washing Facilities. (a) Each place of employment shall be supplied with pure drinking water, convenient to employees. Individual paper cups shall be provided or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every 25 female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary.

(c) Sufficient soap and either individual cloth or paper towels shall be supplied. Towels used in common are prohibited.



(16) **First Aid.** Adequate first aid supplies must be provided and kept clean and sanitary in a dustproof container.

(17) **Lifting.** No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the division.

(See last column for "Excerpts From Labor Code," Section 1262.)

(18) **Seats.** Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

(19) **Floors.** (a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth and tight.

(c) Where wet processes are employed, the floor must be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.

(20) **Cleanliness and Upkeep.** Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

(21) **Lighting.** All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision or glare in the eyes of the workers.

(22) **Ventilation.** Each room in which women or minors are employed shall be thoroughly ventilated.

(23) **Temperature.** The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 65 degrees F., and, weather permitting, a maximum of 75 degrees F. If, owing to the nature of the process, excessive heat is created in the workroom, special devices shall be installed to reduce such excessive heat. Where the nature of the employment will not permit a temperature of 65 degrees F., a heated room shall be provided to which employees may retire for warmth.

(24) **Exits.** Except as otherwise herein provided, every floor, mezzanine, or balcony on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is

unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress must be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.

In facilities constructed prior to the effective date of this order, the above requirement of two exits shall not apply to a first floor, second floor, mezzanine, or balcony when all the following conditions are met: The premises cannot be altered to provide a second exit; an adequate number of properly maintained fire extinguishers are readily available; and the activities carried on in the establishment do not create a fire hazard. (For other regulations regarding exits, see General Industry Safety Orders, Title 8, California Administrative Code, Section 3244.)

(25) **Elevators.** When females are employed on the fourth or higher floors, adequate elevator service must be provided.

(26) **Exemptions.** If, in the opinion of the commission after due investigation, it is found that the enforcement of any provision contained in Sections 11 to 25 of this order would not materially increase the comfort, health, or safety of employees and would work undue hardship on the employer, exemptions may be made at the discretion of said commission. Such exemptions must be in writing to be effective and can be revoked after reasonable notice is given in writing. Applications for exemptions shall be made by the employer to the commission in writing.

(27) **Filing Reports.** Every employer shall furnish to the commission and to the division any and all reports or information which may be required to carry out the purpose of this order, such reports and information to be verified if and when so requested.

(28) **Inspection.** The commission and duly authorized representatives of the division shall be allowed free access to any office or establishment covered by this order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

(29) **Penalties.** Failure, refusal or neglect to comply with any of the provisions of this order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

(30) **Separability.** If the application of any provision of this order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but, shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

(31) **Posting of Order.** Every employer shall keep posted, in a conspicuous place, a copy of this order where it can be read by the women and minor employees.

MERCANTILE

ORDER NUMBER 7-57

Title 8, Calif.
Admin. Code 12318

INDUSTRIAL WELFARE COMMISSION ORDER NO.

WAGES, HOURS, AND WORKING CO IN THE MERCAI

(REPLACING FORMER ORDER 1-52)

STATE OF CALIFORNIA—DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF INDUSTRIAL WELFARE



1818-1915 H. Bakerfield
791 Main St., E. Coates
619 Second St., Fresno
1318 Marquette St., Fresno 21
218 E. Third St., Long Beach
187 E. Broadway, Los Angeles

Administrative Offices: 453 Golden Gate Avenue, San Francisco 2
1711 Jackson St., Oakland 7
1524 East St., Redding
417 Fort St., Sacramento 14
478 W. Main St., San Bernardino
1521 Fourth Ave., San Diego 1
32 S. Alameda Ave., San Jose 10

1619 W. 17th St., Santa Ana
411 E. Green Park Rd., Santa Barbara
388 Mendocino Ave., Santa Rosa
507 N. San Jose Ave., Ukiah
4931 Van Ness Blvd., Van Nuys

TO WHOM IT MAY CONCERN:

TAKE NOTICE: That pursuant to and by virtue of authority vested in it by Sections 1171 through 1204 of the Labor Code of the State of California, and after public hearing duly had, notice of said hearing having been duly given in the manner provided by law, the Industrial Welfare Commission, upon its own motion, having found and concluded that the Manufacturing and Mercantile Industries Order, Number 1-52, enacted by the Industrial Welfare Commission on May 16, 1952, should be altered and amended:

NOW, THEREFORE, The Industrial Welfare Commission of the State of California does hereby alter and amend said Manufacturing and Mercantile Industries Order, Number 1-52, and does hereby enact its amended order for the Mercantile Industry as follows:

No person, as defined in Section 18 of the Labor Code, shall employ any woman or minor in any establishment, industry, or occupation in which the wages, hours, or working conditions are not in conformance with the standards hereinafter set forth:

1. APPLICABILITY OF ORDER

This Order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that the provisions of Sections 3 through 12 shall not apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

- The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$350 per month; or
- The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. DEFINITIONS

(a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

3. HOURS

(A) No woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day, nor more than

(b) Every employer shall pay to each employee, on the established pay day 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) In no case shall gratuities, tips, or service charges in the nature of gratuities from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips or gratuities for this purpose.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar (\$1) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

("Split Shift" means a work schedule which is interrupted by non-working periods of at least one hour, two rest or meal periods.)

5. REPORTING TIME PAY

Each day 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 day's work, the employee shall be paid for half the usual day's work, but in no event for less than two (2) hours, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

6. PERMIT FOR HANDICAPPED WORKERS

A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. RECORDS

(a) Every employer shall keep accurate information with respect to each employee as follows:

- (1) Full name, home address, and occupation.
- (2) Birth date, if under eighteen (18) years, and designation as a minor.
- (3) Time records showing all in-and-out time which shall be recorded when it occurs, and also total hours worked each day. 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.
- (6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages an itemized statement in writing showing gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year at the place of employment.

(d) Clocks shall be provided in all major work areas.

8. CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the culpable negligence of the employee.

9. UNIFORMS AND EQUIPMENT

(a) No employee shall be required to contribute directly or indirectly from the wage for the purchase or maintenance of uniforms. The term "uniforms" includes wearing apparel and accessories of distinctive design or color.

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(a) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

3. HOURS

(a) No woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week except under the following conditions:

(1) In an emergency as defined in Section 2(j) above, if such employment is not prohibited by the Eight Hour Law (Sections 1330-1334 of the Labor Code);

NOTE: In most industries, employment in excess of eight (8) hours per day or forty-eight (48) hours per week is prohibited. See excerpts from the Labor Code in lower right corner.

or

(2) During periods when it is necessary to process perishable products to prevent such products from spoiling; and

(3) All hours in excess of eight (8) hours per day and all hours on the seventh (7th) day are compensated at not less than one and one-half (1½) times the employee's regular rate of pay.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) The eight (8) hours of employment shall be performed within a period of not more than thirteen (13) hours. Eleven (11) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable, sheltered place shall be provided in which to consume such food and drink.

NOTE: Refer to State Labor Code for additional restrictions on working hours of minors.

4. MINIMUM WAGES

(a) Every employer shall pay to each woman and minor employee wages not less than one dollar (\$1) per hour for all hours worked; except that a lesser rate, but not less than eighty-five cents (85¢) per hour, may be paid to:

(1) Women, eighteen (18) years of age or over, during their first two hundred (200) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one learner at said lesser rate.

(2) Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one minor at said lesser rate.

be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages an itemized statement in writing showing gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year at the place of employment.

(d) Clocks shall be provided in all major work areas.

5. CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.

9. UNIFORMS AND EQUIPMENT

(a) No employee shall be required to contribute directly or indirectly from the wage for the purchase or maintenance of uniforms. The term "uniform" includes wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment.

(b) No employee shall be required to contribute directly or indirectly from the wage for the purchase or maintenance of tools or equipment except that employees in beauty salons and barber shops may be required to furnish their own manicure implements, curling irons, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.

(c) When protective garments are required by the employer, or are necessary to safeguard the health of, or prevent injury to, an employee, such garments shall be provided and paid for by the employer.

10. MEALS AND LODGING

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

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room Occupied Alone—\$5 per week

Room Shared—\$4 per week

Apartment—Two-thirds (⅔) of the ordinary rental value, and in no event more than \$86 per month.

Meals: Breakfast—40 cents

Lunch—65 cents

Dinner—95 cents

Deductions may not be made for meals not eaten and shall be made only for bona fide meals consistent with employee's work shift.

11. MEAL PERIODS

No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived. 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 time spent for such "on duty" meal period shall be counted as time worked.

12. REST PERIODS

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 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 (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

THIS ORDER MUST BE POSTED

DITIONS FOR WOMEN AND MINORS

ITILE INDUSTRY

13. DRESSING AND REST ROOMS

(a) Employers shall provide for adequate safekeeping of employees' outer clothing during working hours, and for their work clothes during nonworking hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than twenty (20) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof; except that, when the nature of the work requires standing, one couch shall be provided where there are more than ten (10) female employees. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, heated, and maintained in a sanitary condition.

14. DRINKING WATER AND WASHING FACILITIES

(a) Each place of employment shall be supplied with pure drinking water, convenient to employees. Individual paper cups shall be provided, or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary.

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited.

15. TOILET ROOMS

(a) **NUMBER.** Women's toilet rooms shall be so marked and the number of toilets required is as follows:

When the number of female workers at one time is between:	The number of toilets shall be not less than:
1-15	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

* If the entire plant of an establishment employs less than five (5) and only one toilet is available, it may be used by both sexes. (See Title 2, California Administrative Code, Section 115 (A), for regulations in meat processing plants.)

(b) GENERAL CONSTRUCTION

(1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, no constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit. Each toilet compartment door shall be provided with a latch or bolt.

(3) The walls of toilet rooms shall extend to a ceiling and the rooms shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture and the angle formed by the floor and wall shall be sealed or coved.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and nonabsorbent, and all painted surfaces shall be a light color.

(c) **SUPPLIES.** Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) **LOCATION.** Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's work place unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) **MAINTENANCE.** Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fix-

temperature of 65° F., a heated room shall be provided to which employees may retire for warmth.

24. EXITS

Except as otherwise herein provided, every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress shall be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.

In facilities constructed prior to August 1, 1952, the above requirement of two exits shall not apply to a basement, first floor, second floor, mezzanine, or balcony when the premises cannot be altered to provide a second exit and the activities carried on in the establishment do not create an undue hazard.

(For other regulations regarding exits, see Title 2, Chapter 4, California Administrative Code.)

25. ELEVATORS

When females are employed on the fourth or higher floors, adequate elevator service shall be provided.

26. EXEMPTIONS

If, in the opinion of the Commission after due investigation, it is found that the enforcement of any provision contained in Section 7 pertaining to the location of records, or Sections 11 through 25 of this Order, would not materially affect the comfort, health, or safety of employees and would work an undue hardship on the employer, exemption may be made at the discretion of said Commission. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer to the Commission in writing.

27. FILING REPORTS

Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

28. INSPECTION

The Commissioner and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make extracts from any and all records and to question all employees for such purposes.

29. PENALTIES

Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

30. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in an area frequented by women and minors where it may be easily read during the work day.

Dated at San Francisco, California, this thirtieth day of May, 1957.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

JOHN W. QUINCY, Chairman
DANIEL B. KORTLAND
FRANCES LARSEN
NORMAN S. LIVEN
MAE STONEMAN

NANCY C. SWANSON, Chief
Division of Industrial Welfare

EXCERPTS FROM STATE LABOR CODE

Section 12. "Person" means any person, association, organization, partnership, business trust, or corporation.
Section 119. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50) or by imprisonment for not less than 10 days, or by both, who does any of the following:
(a) Requires or causes any woman or minor to work for longer hours than those fixed, or under conditions of labor prohibited by an

NOTICE: Beginning with the first Register printed in 1953, a system of numbering the Registers to correspond to the year, i.e., 53, No. 1, has been adopted.

(Register 57, No. 13-8-24-57)

State of California

California Administrative Register 57, No. 13-B

(August 24, 1957)

Amendments and Additions to Rules and Regulations of

Title 3. Agriculture

Title 8. Division of Industrial Safety

Division of Industrial Welfare

Title 14. Fish and Game Commission



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REVISION RECORD FOR REGISTER 57, No. 13
(August 24, 1957)

TITLE 8. INDUSTRIAL RELATIONS

CHAPTER 5. DIVISION OF INDUSTRIAL WELFARE

This part of Register 57, No. 13, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from August 10, 1957, to and including August 24, 1957.

It is important that the holders of the above-entitled portion of the code check the section numbers listed below as well as the page numbers when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively even though there may be an error in the paging.

SECTION CHANGES

Unless otherwise noted, the sections listed below are amended herein.

Section	Section
11040	11180
11057 added	11215 added
11075	11310
11110	11345
11145	11380
	11480

PAGE CHANGES

REMOVE Old Pages	INSERT Attached Pages
737-738	737-738
741 through 782	741 through 782.12
793 through 834.2	793 through 834.2

Do Not Throw Away Superseded Material. Save it and place it in a separate file under the original heading (either the appropriate title or register heading). It will then always be possible to find the prior wording of any section by using the history notes provided.

NOTE: This revision sheet is not a part of the code and should not be inserted therein. It is chiefly for filing purposes. If preserved with the removed pages, it will afford a ready reference to the sections affected by agency action.

Article 8. Mercantile Industry
(Order 7-57, Effective November 15, 1957)

11215. Order Governing Wages, Hours, and Working Conditions for Women and Minors in the Mercantile Industry. (1) Applicability of Order. This order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that the provisions of Sections 3 through 12 shall not apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$350 per month; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

NOTE: Authority cited: Sections 1182 and 1184, Labor Code.

History: 1. Revision filed 9-5-47 (Register 8).

2. Register filed 6-28-52 designated to be effective 8-1-52 (Register 25, No. 6).

3. New Article 8 (§ 11215) filed 8-15-57; designated effective 11-15-57 (Register 57, No. 13).

(2) Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this order, a male or female person under the age of eighteen (18) years.

(h) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of this order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(3) Hours. (a) No woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week except under the following conditions:

(1) In an emergency as defined in Section 2(j) above, if such employment is not prohibited by the Eight Hour Law (Sections 1350-1354 of the Labor Code);

NOTE: In most industries, employment in excess of eight (8) hours per day or forty-eight (48) hours per week is prohibited. See exceptions from the Labor Code in lower right corner.

or

(2) During periods when it is necessary to process perishable products to prevent such products from spoiling;

and

(3) All hours in excess of eight (8) hours per day and all hours on the seventh (7th) day are compensated at not less than one and one-half (1½) times the employee's regular rate of pay.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) For eight (8) hours of employment shall be performed within a period of not more than thirteen (13) hours. Eleven (11) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable, sheltered place shall be provided in which to consume such food and drink.

NOTE: REFER TO STATE LABOR CODE FOR ADDITIONAL RESTRICTIONS ON WORKING HOURS OF MINORS.

(4) Minimum Wages. (a) Every employer shall pay to each woman and minor employee wages not less than one dollar (\$1) per

hour for all hours worked; except that a lesser rate, but not less than eighty-five cents (85¢) per hour, may be paid to:

(1) Women, eighteen (18) years of age or over, during their first two hundred (200) hours of employment in skilled or semiskilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one learner at said lesser rate.

(2) Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one minor at said lesser rate.

(b) Every employer shall pay to each employee, on the established pay day 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) In no case shall gratuities, tips, or service charges in the nature of gratuities from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips or gratuities for this purpose.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar (\$1) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

("Split shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

(6) Reporting Time Pay. Each day 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 day's work, the employee shall be paid for half the usual day's work, but in no event for less than two (2) hours, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

(6) Permit for Handicapped Workers. A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

(7) Records. (a) Every employer shall keep accurate information with respect to each employee as follows:

(1) Full name, home address, and occupation.

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(2) Birth date, if under eighteen (18) years, and designation as a minor.

(3) Time records showing all in-and-out time which shall be recorded when it occurs, and also total hours worked each day. 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.

(6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the division.

(b) Every employer shall furnish to each employee at the time of payment of wages an itemized statement in writing showing gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, properly dated, showing month, day, and year, and shall be kept on file by the employer for at least one year at the place of employment.

(d) Clocks shall be provided in all major work areas.

(8) Cash Shortage and Breakage. No employer shall make any deduction from the wage of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the culpable negligence of the employee.

(9) Uniforms and Equipment. (a) No employee shall be required to contribute directly or indirectly from the wage for the purchase or maintenance of uniforms. The term "uniform" includes wearing apparel and accessories of distinctive design or color required by the employer to be worn by the employee as a condition of employment.

(b) No employee shall be required to contribute directly or indirectly from the wage for the purchase or maintenance of tools or equipment except that employees in beauty salons and barber shops may be required to furnish their own manicure implements, curling irons, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.

(c) When protective garments are required by the employer, or are necessary to safeguard the health of, or prevent injury to, an employee, such garments shall be provided and paid for by the employer.

(10) Meals and Lodging. "Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room occupied alone—\$5 per week

Room shared —\$4 per week

Apartment—Two-thirds ($\frac{2}{3}$) of the ordinary rental value, and in no event more than \$86 per month.

Meals: { Breakfast—40 cents
Lunch —55 cents
Dinner —95 cents

Deductions may not be made for meals not eaten and shall be made only for bona fide meals consistent with employee's work shift.

(11) Meal Periods. No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived. 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 time spent for such "on duty" meal period shall be counted as time worked.

(12) Rest Periods. 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 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 ($3\frac{1}{2}$) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(13) Dressing and Rest Rooms. (a) Employers shall provide for adequate safekeeping of employees' outer clothing during working hours, and for their work clothes during nonworking hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than twenty (20) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof; except that, when the nature of the work requires standing, one couch shall be provided where there are more than ten (10) female employees. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, heated, and maintained in a sanitary condition.

(14) Drinking Water and Washing Facilities. (a) Each place of employment shall be supplied with pure drinking water, convenient to employees. Individual paper cups shall be provided, or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary.

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited.

(15) Toilet Rooms. (a) Number. Women's toilet rooms shall be so marked and the number of toilets required is as follows:

Where the number of females employed at one time is between	The number of toilets shall be not less than
1-15*	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

* If the entire staff of an establishment numbers less than five (5) and only one toilet is available, it may be used by both sexes. (See Title 3, California Administrative Code, Section 964 (a), for requirements in meat processing plants.)

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

(b) General Construction. (1) Toilets shall be of the water-pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit. Each toilet compartment door shall be provided with a latch or bolt.

(3) The walls of toilet rooms shall extend to a ceiling and the room shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture and the angle formed by the floor and wall shall be sealed or coved.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and non-absorbent, and all painted surfaces shall be a light color.

(c) Supplies. Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) Location. Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's workplace unless adequate elevator service is available. In existing establishments when, in the judgment of the division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) Maintenance. Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

(16) First Aid. Adequate first aid supplies shall be provided and kept clean and sanitary in a dustproof container.

(17) Lifting. No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the division.

(See last column for "Excerpts from Labor Code," Section 1352.)

(18) Seats. Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

(19) Floors. (a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth, and tight.

(c) Where wet processes are employed, the floor shall be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.

(20) Cleanliness and Upkeep. Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

(21) Lighting. All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light

(Register 57, No. 13--8.24-57)

furnished will be adequate for efficient work and prevent unnecessary strain on the vision or glare in the eyes of the workers.

(22) Ventilation. Each room in which women or minors are employed shall be thoroughly ventilated.

(23) Temperature. The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 65 degrees F., and, weather permitting, a maximum of 75 degrees F. If, owing to the nature of the process, excessive heat or humidity is created in the workroom, special devices shall be installed to reduce such excessive heat or humidity. Where the nature of the employment will not permit a temperature of 65 degrees F., a heated room shall be provided to which employees may retire for warmth.

(24) Exits. Except as otherwise herein provided, every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress shall be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.

In facilities constructed prior to August 1, 1952, the above requirement of two exits shall not apply to a basement, first floor, second floor, mezzanine, or balcony when the premises cannot be altered to provide a second exit and the activities carried on in the establishment do not create an undue hazard.

(For other regulations regarding exits, see Title 8, Chapter 4, California Administrative Code.)

(25) Elevators. When females are employed on the fourth or higher floors, adequate elevator service shall be provided.

(26) Exemptions. If, in the opinion of the commission after due investigation, it is found that the enforcement of any provision contained in Section 7 pertaining to the location of records, or Sections 11 through 25 of this order, would not materially affect the comfort, health, or safety of employees and would work an undue hardship on the employer, exemption may be made at the discretion of said commission. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer to the commission in writing.

(27) Filing Reports. Every employer shall furnish to the commission and to the division any and all reports or information which may be required to carry out the purpose of this order, such reports and information to be verified if and when so requested.

(28) Inspection. The commission and duly authorized representatives of the division shall be allowed free access to any office or establishment covered by this order to investigate and gather data regarding

(Register 57, No. 13--8.24-57)

wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

(29) Penalties. Failure, refusal, or neglect to comply with any of the provisions of this order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

(30) Separability. If the application of any provision of this order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

(31) Posting of Order. Every employer shall keep a copy of this order posted in an area frequented by women and minors where it may be easily read during the workday.

WAGES, HOURS, AND WORKING COI IN THE MERCAI



(REPLACING FORMER ORDER 7-57)

STATE OF CALIFORNIA—DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF INDUSTRIAL WELFARE

ADMINISTRATIVE OFFICE: 455 GOLDEN GATE AVENUE, SAN FRANCISCO 2

125 Chester Ave., Berkeley
184 Broadway, El Centro
619 Second St., Eureka
1158 Marlowe St., Fresno
1110 N. Linden Ave., Long Beach
1110 N. Fourth St., Long Beach

187 S. Broadway, Los Angeles
1111 Jackson St., Oakland
1115 Alford Ave., Redding
815 Forum Bldg., Sacramento
473 W. Main Line St., San Bernardino
1110 Front St., San Diego

818 N. First St., San Jose
1624 W. 19th St., Santa Ana
411 E. Canon Florida, Santa Barbara
754 Montecito Ave., Santa Rosa
11 E. Channel St., Stockton
6921 Van Nuys Blvd., Van Nuys

TO WHOM IT MAY CONCERN:

TAKE NOTICE: That pursuant to and by virtue of authority vested in it by Sections 1171 through 1204 of the Labor Code of the State of California, and after public hearing duly had, notice of said hearing having been duly given in the manner provided by law, the Industrial Welfare Commission, upon its own motion, having found and concluded that the Mercantile Industry Order, Number 7-17, enacted by the Industrial Welfare Commission on May 10, 1917, should be altered and amended:

NOW, THEREFORE, The Industrial Welfare Commission of the State of California does hereby alter and amend said Mercantile Industry Order, Number 7-17, and does hereby enact its amended Order as follows:

No person, as defined in Section 18 of the Labor Code, shall employ any woman or minor in any establishment, industry, or occupation in which the wages, hours, or working conditions are not in conformance with the standards hereinafter set forth:

NOTE: Rates and values for minimum wages, split shifts, meals and lodging are increased in two steps, in Sections 1 and 1B below.

1. APPLICABILITY OF ORDER

This Order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that the provisions of Sections 3 through 12 shall not apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

- The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$400 per month; or
- The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. DEFINITIONS

(a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at uncheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

3. HOURS

(a) No woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more

viours similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one learner at said lower rate.

(2) Minors, provided that the number of minors employed at said lower rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one minor at said lower rate.

(b) Every employer shall pay to each employee, on the established pay day 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) In no case shall gratuities, tips, or service charges in the nature of gratuities from patrons or others be counted as part of the minimum wage. No employer shall be required to report tips or gratuities for this purpose.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar and twenty-five cents (\$1.25) per day until August 30, 1964, and one dollar and thirty cents (\$1.30) per day on August 30, 1964 and thereafter, shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

(*Note that "split shift" means a work schedule which is interrupted by nonworking periods which have been determined by the employer.)

5. REPORTING TIME PAY

Each day 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 day's work, the employee shall be paid for half the usual day's work, but in no event for less than two (2) hours, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

6. PERMIT FOR HANDICAPPED WORKERS

A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. RECORDS

(a) Every employer shall keep accurate information with respect to each employee as follows:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under eighteen (18) years, and designation as a minor.

(3) Time records showing all in-and-out time which shall be recorded 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.

(6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing the payroll period covered, gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, properly dated, showing month, day, and year, and shall be kept on file

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LEGISLATIVE INTENT SERVICE



(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at uncheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

3. HOURS

(a) No woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week except under the following conditions:

(1) In an emergency as defined in Section 2(j) above, if such employment is not prohibited by the EIGHT HOUR LAW (Sections 1330-1334 of the Labor Code);

NOTE: In most industries employment in excess of eight (8) hours per day or forty-eight (48) hours per week is prohibited. (See exceptions from the Labor Code in lower right corner.)

(2) During periods when it is necessary to process perishable products to prevent such products from spoiling; provided that

(3) The employer is compensated for such overtime at not less than:

(A) One and one-half (1½) 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 day, and for the first eight (8) hours worked on the seventh (7th) day; and

(B) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one day, and for all hours worked in excess of eight (8) hours on the seventh (7th) day.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week, or before 5 o'clock in the morning, or after 10 o'clock in the evening.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) The eight (8) hours of employment shall be performed within a period of not more than twelve (12) hours. Twelve (12) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable, sheltered place shall be provided in which so consume such food and drink.

NOTE: Refer to State Labor Code for additional restrictions on working hours of minors.

4. MINIMUM WAGES

(a) Every employer shall pay to each woman and minor employee wages not less than one dollar and twenty-five cents (\$1.25) per hour for all hours worked until August 10, 1964, and one dollar and thirty cents (\$1.30) per hour for all hours worked on August 10, 1964 and thereafter; except that a lower rate, but not less than one dollar (\$1) per hour until August 10, 1964, and one dollar and five cents (\$1.05) per hour on August 10, 1964 and thereafter, may be paid to:

(1) Women, eighteen (18) years of age or over, during their first one hundred (100) hours of employment in skilled or semi-skilled occupations in which they have had no pre-

vious operations before and subsequent to such periods shall 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.

(6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing the payroll period covered, gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, 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.

(d) Checks shall be provided in all major work areas.

5. CASH SHORTAGE AND BREAKAGE

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

9. UNIFORMS AND EQUIPMENT

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

(b) Except as provided in subsection (d) of this section, 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 employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.

(c) Except as provided in subsection (d) of this section, when protective garments are required by the employer, or are necessary to safeguard the health of, or prevent injury to, an employee, such garments shall be provided and paid for by the employer.

(d) An employer may require a reasonable deposit as security for the return of the items furnished by him under the provisions of subsections (a), (b), and (c) of this section upon issuance of a receipt to the employee for such deposit. All items furnished by the employer shall be returned by the employee on completion of the job.

10. MEALS AND LODGING

"Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious food.

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

	Effective August 10, 1963	Effective August 10, 1964
Room Occupied Alone	\$6.25 per week	\$6.50 per week
Room Shared	\$5.00 per week	\$5.20 per week
Apartment—Two-thirds (⅔) of the ordinary rental value, and in no event more than	\$107.50 per mo.	\$107.50 per mo.
Meals: { Breakfast	50 cents	50 cents
{ Lunch	50 cents	55 cents
{ Dinner	\$1.20	\$1.25

THIS ORDER MUST BE POSTED

O. 7-63, EFFECTIVE AUGUST 30, 1963, REGULATING

ORDER NUMBER 7-63

CONDITIONS FOR WOMEN AND MINORS IN THE TILE INDUSTRY

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.

Deductions shall not be made for meals not eaten nor for lodging not used. Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift.

11. MEAL PERIODS

(a) No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of employer and employee. 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 requires an employee from being relieved of all duty.

(b) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. REST PERIODS

Every employer shall authorize and permit all employees to take rest periods which, where 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 per hour (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 (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

13. DRESSING AND REST ROOMS

(a) Employers shall provide for adequate safekeeping of employees' outer clothing during working hours, and for their work clothes during nonworking hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such changes in privacy and comfort.

(b) When the number of females employed at one time is more than ten (10) and less than fifty (50) there shall be provided one couch, and hereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, heated, and maintained in a sanitary condition.

14. DRINKING WATER AND WASHING FACILITIES

(a) Each place of employment shall be supplied with pure, cool drinking water, convenient to employees. Individual paper cups shall be provided, or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary.

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited; mechanically controlled, properly serviced, continuous cloth towels are permissible.

15. TOILET ROOMS

(a) NUMBER. Women's toilet rooms shall be so marked and the number of toilets required is as follows:

When the number of female employees at one time is between:	The number of toilets shall be not less than:
1-15	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

If the ratio of male to female employees is less than five (5) and only one toilet is available, it must be used by both sexes. (See Title 8, California Administrative Code, Section 914.2.) For requirements in most preceding sections.

(b) GENERAL CONSTRUCTION.

(1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrance to toilet rooms shall be effectively screened so that no toilet compartment is visible from any work area. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance.

16. CLEANLINESS AND UPGRADE

Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

17. LIGHTING

All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision, or glare in the eyes of the workers.

18. VENTILATION

Each room in which women or minors are employed shall be properly ventilated.

19. TEMPERATURE

The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 61° F., and, weather permitting, a maximum of 73° F. If, owing to the nature of the process, excessive heat or humidity is created in the workroom, special devices shall be installed to reduce such excessive heat or humidity. Where the nature of the employment will not permit a temperature of 61° F., a heated room shall be provided to which employees may retire for warmth.

20. EXITS

Except as otherwise herein provided, every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two (2) exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress shall be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unobstructed during working hours.

In facilities constructed prior to August 1, 1952, the above requirements of two exits shall not apply to a basement, first floor, second floor, mezzanine, or balcony when the premises cannot be altered to provide a second exit and the activities carried on in the establishment do not create an undue hazard.

(For other provisions regarding exits, see Title 8, Chapter 4, California Administrative Code.)

21. ELEVATORS

When females are employed on the fourth or higher floors, adequate elevator service shall be provided.

22. EXEMPTIONS

If, in the opinion of the Commission after due investigation, it is found that the enforcement of any provision contained in Section 7 pertaining to the location of records, or Sections 11 through 21 of this Order, would not materially affect the comfort, health, or safety of employees and would work an undue hardship on the employer, exemption may be made at the discretion of said Commission. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Commission in writing.

23. WRITING REPORTS

Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

24. INSPECTION

The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

25. PENALTIES

Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

(See last volume for "Exemptions from Labor Code," Section 119.2.)

26. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

27. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in an area frequented by women and minors where it may be easily read during the work day.

Enacted at San Francisco, California, this 11th day of April, 1963.

Order 7-17, enacted May 16, 1957, is hereby rescinded as of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

LEGISLATIVE INTENT SERVICE (800) 666-1917

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited; mechanically controlled, properly serviced, continuous cloth towels are permissible.

15. TOILET ROOMS

(a) NUMBER. Women's toilet rooms shall be so marked and the number of toilets required is as follows:

Where the number of females employed is not less than 100	The number of toilets shall be not less than
1- 11	1
12- 30	2
31- 41	3
42- 60	4
61- 80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

If the employer of an establishment employs less than five (5) and only one toilet is available, it may be used by both men and women, provided the toilet is properly maintained.

(b) GENERAL CONSTRUCTION.

(1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any work-room. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit. Each toilet compartment door shall be provided with a latch or bolt.

(3) The walls of toilet rooms shall extend to a ceiling and the rooms shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floor shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed or covered.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and nonabsorbent, and all painted surfaces shall be a light color.

(c) SUPPLIES. Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) LOCATION. Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's work place unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) MAINTENANCE. Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

16. FIRST AID

Adequate first aid supplies shall be provided, and kept clean and sanitary in a dustproof container.

17. LIFTING

No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permission from the Division.

(The law relates to "Exemption from Labor Code," Section 1311.)

18. SEATS

Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

19. FLOORS

(a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth, and clean.

(c) Where wet processes are employed, the floor shall be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.

Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

29. PENALTIES

Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

(See law relating to "Exemption from Labor Code," Section 1311.)

30. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in an area frequented by women and minors where it may be easily read during the work day.

Dated at San Francisco, California, this 18th day of April, 1943.

Order 7-17, enacted May 10, 1917, is hereby rescinded as of and of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

FRANCIS LARSEN, Chairman

RUTH E. COMPAGNON

NORMAN S. LERIN

LEONARD F. LEBLANC

JAMES J. RODRIGUEZ

FLORENCE G. CLIFTON, Chief, Division of Industrial Welfare

EXCERPTS FROM STATE LABOR CODE

Section 119. "Person" means any person, partnership, association, corporation, business trust, or unincorporated firm.

Section 119.5. Every employee or other person using either individually or as an officer, agent, or employee of another person in policy of a maintenance and is punishable by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment not less than 30 days, or by both.

(1) Failure or neglect to comply with any of the provisions of this chapter or any order of the commission.

(2) Failure or neglect to comply with any provision of this chapter or any order of the commission.

Section 124. No female employee shall be required or permitted to carry any object weighing in excess of twenty-five (25) pounds or more than one hundred (100) pounds, except upon permission from the Division.

Section 125. No female shall be employed in any manufacturing, mechanical, or mechanical establishment or industry, including, but not limited to, the following: (a) any work in or about any building, or any work in or about any transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in any week.

Section 125.5. No employer shall employ, cause to be employed, or permit any female to work any number of hours exceeding, with knowledge that such female has obstetricians have required within the same day of 24 hours in any establishment or industry, and by any person, except upon permission from the Division.

Section 126. No female shall be employed in any work in or about any building, or any work in or about any transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in any week.

Section 127. The provisions of this article in relation to hours of employment shall not apply to or affect production or other work in or about any building, or any work in or about any transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in any week.

Section 128. The provisions of this article in relation to hours of employment shall not apply to or affect production or other work in or about any building, or any work in or about any transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in any week.

Section 129. The provisions of this article in relation to hours of employment shall not apply to or affect production or other work in or about any building, or any work in or about any transportation company in this State, more than eight hours during any one day of 24 hours or more than 48 hours in any week.

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D IN A CONSPICUOUS PLACE

NOTICE: Beginning with the first Register printed in 1953, a system of numbering the Registers to correspond to the year, i.e., 53, No. 1, has been adopted.

(Register 63, No. 9-6-1-63)

State of California

California Administrative Register 63, No. 9-A ✓

(June 1, 1963)

Amendments and Additions to Rules and Regulations of

Title 3.	Agriculture
Title 8.	Division of Industrial Welfare Division of Housing
Title 11.	Attorney General
Title 18.	Franchise Tax Board



X re T.8 sec. 11215

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RJN 160

REVISION RECORD FOR REGISTER 63, No. 9
(June 1, 1963)

TITLE 8. INDUSTRIAL RELATIONS

CHAPTER 5. DIVISION OF INDUSTRIAL WELFARE

This part of Register 63, No. 9, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from May 18, 1963, to and including June 1, 1963.

It is important that the holders of the above-entitled portion of the code check the section numbers listed below as well as the page numbers when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively even though there may be an error in the paging.

SECTION CHANGES

Unless otherwise noted, the sections listed below are amended herein.

Section	Section
11040	11216
11057	11280
11075	11310
11110	11345
11127	11380
11145	11480
11180	

PAGE CHANGES

REMOVE	INSERT
Old Pages	Attached Pages
741 through 824.2	741 through 824.2

Do Not Throw Away Superseded Material. Save it and place it in a separate file under the original heading (either the appropriate title or register heading). It will then always be possible to find the prior wording of any section by using the history notes provided.

Note: This revision sheet is not a part of the code and should not be inserted therein. It is chiefly for filing purposes. It preserved with the removed pages. It will afford a ready reference to the sections affected by agency action.

(Transfer page 743, Title 8)
(6CJ) 608-1577

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RJN 161

MERCANTILE INDUSTRY

(Register 53, No. 9-8-1-63)

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen. (18) years.

(h) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

3. Hours. (a) No woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week except under the following conditions:

(1) In an emergency as defined in Section 2(j) above, if such employment is not prohibited by the Eight Hour Law (Sections 1350-1354 of the Labor Code);

NOTE: In most industries, employment in excess of eight (8) hours per day or forty-eight (48) hours per week is prohibited. (See excerpts from the Labor Code in lower right corner.)

or

(2) During periods when it is necessary to process perishable products to prevent such products from spoiling; provided that

(3) The employee is compensated for such overtime at not less than:

(Register 63, No. 9-8-1-63)

(A) One and one-half (1½) 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 day, and for the first eight (8) hours worked on the seventh (7th) day; and

(B) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one day, and for all hours worked in excess of eight (8) hours on the seventh (7th) day.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week, or before 5 o'clock in the morning, or after 10 o'clock in the evening.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) The eight (8) hours of employment shall be performed within a period of not more than twelve (12) hours. Twelve (12) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable, sheltered place shall be provided in which to consume such food and drink.

Note: Refer to State Labor Code for additional restrictions on working hours of minors.

4. Minimum Wages. (a) Every employer shall pay to each woman and minor employee wages not less than one dollar and twenty-five cents (\$1.25) per hour for all hours worked until August 30, 1964, and one dollar and thirty cents (\$1.30) per hour for all hours worked on August 30, 1964 and thereafter; except that a lesser rate, but not less than one dollar (\$1) per hour until August 30, 1964, and one dollar and five cents (\$1.05) per hour on August 30, 1964 and thereafter, may be paid to:

- (1) Women, eighteen (18) years of age or over, during their first two hundred (200) hours of employment in skilled or semiskilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one learner at said lesser rate.

(Register 63, No. 9-6-1-63)

(2) Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one minor at said lesser rate.

(b) Every employer shall pay to each employee, on the established pay day 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) In no case shall gratuities, tips, or service charges in the nature of gratuities from patrons or others be counted as part of the minimum wage. No employee shall be required to report tips or gratuities for this purpose.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar and twenty-five cents (\$1.25) per day until August 30, 1964, and one dollar and thirty cents (\$1.30) per day on August 30, 1964 and thereafter, shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

("Split shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

5. Reporting Time Pay. Each day 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 day's work, the employee shall be paid for half the usual day's work, but in no event for less than two (2) hours, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

6. Permit for Handicapped Workers. A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. Records. (a) Every employer shall keep accurate information with respect to each employee as follows:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under eighteen (18) years, and designation as a minor.

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(3) Time records showing all in-and-out time which shall be recorded 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.

(6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing the payroll period covered, gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, 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.

(d) Clocks shall be provided in all major work areas.

8. **Cash Shortage and Breakage.** No employer shall make any deduction from the wage or require any refund of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, 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.

9. **Uniforms and Equipment.** (a) Except as provided in subsection (d) of this section, 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 and accessories of distinctive design or color.

(b) Except as provided in subsection (d) of this section, 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 employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.



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(c) Except as provided in subsection (d) of this section, when protective garments are required by the employer, or are necessary to safeguard the health of, or prevent injury to, an employee, such garments shall be provided and paid for by the employer.

(d) An employer may require a reasonable deposit as security for the return of the items furnished by him under the provisions of subsections (a), (b), and (c) of this section upon issuance of a receipt to the employee for such deposit. All items furnished by the employer shall be returned by the employee on completion of the job.

10. **Meals and Lodging.** "Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

	Effective August 30, 1963	Effective August 30, 1964
Room occupied alone		
Room shared	\$8.25 per week	\$8.50 per week
Apartment—Two-thirds (2/3) of the ordinary rental value, and in no event more than	\$5.00 per week	\$5.20 per week
Meals: { Breakfast	\$107.50 per month	\$107.50 per month
{ Lunch	.50 cents	.50 cents
{ Dinner	.85 cents	.85 cents
	\$1.29	\$1.25

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.

Deductions shall not be made for meals not eaten nor for lodging not used. Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's workshift.

11. **Meal Periods.** (a) No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of employer and employee. 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.

(b) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. **Rest Periods.** 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

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shall be based on the total hours worked daily at the rate of ten (10) minutes per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily working time is less than three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

13. Dressing and Rest Rooms. (a) Employers shall provide for adequate safekeeping of employees' outer clothing during working hours, and for their work clothes during nonworking hours. When the occupation requires a change of clothing, a suitable space shall be provided where female employees may make such change in privacy and comfort.

(b) When the number of females employed at one time is more than ten (10) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one-hundred (100) female employees or fraction thereof. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in suitable rooms, conveniently located, exclusively used by women, and open to them during all working hours. Such rooms shall be properly lighted, ventilated, heated, and maintained in a sanitary condition.

14. Drinking Water and Washing Facilities. (a) Each place of employment shall be supplied with pure, cool drinking water, convenient to employees. Individual paper cups shall be provided, or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available.

(b) For every twenty-five (25) female employees or fraction thereof, there shall be one wash basin or equivalent group washing facilities. Surfaces of this equipment shall be smooth and resistant to stain and shall be kept clean and sanitary.

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited; mechanically-controlled, properly-serviced, continuous cloth towels are permissible.

15. Toilet Rooms. (a) Number. Women's toilet rooms shall be so marked and the number of toilets required is as follows:

Where the number of females employed at one time is between:	The number of toilets shall be not less than:
1-15*	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

* If the entire staff of an establishment numbers less than five (5) and only one toilet is available, it may be used by both sexes. (See Title 3, California Administrative Code, Section 90616.)

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(b) General Construction. (1) Toilets shall be of the water pressure type, installed in accordance with approved and customary standards.

(2) The entrances to toilet rooms shall be effectively screened so that no toilet compartment is visible from any workroom. Each toilet shall be in a separate compartment of adequate size, so constructed as to provide privacy, and with a door of such dimensions as to permit easy entrance and exit. Each toilet compartment door shall be provided with a latch or bolt.

(3) The walls of toilet rooms shall extend to a ceiling and the room shall be thoroughly ventilated to the outside air and shall be adequately lighted.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed or coved.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and non-absorbent, and all painted surfaces shall be a light color.

(c) Supplies. Toilet paper, in a proper holder, shall be supplied in each compartment. Sanitary napkins shall be readily obtainable at a reasonable price and a suitable means for their disposal shall be provided.

(d) Location. Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's workplace unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) Maintenance. Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

16. First Aid. Adequate first aid supplies shall be provided and kept clean and sanitary in a dustproof container.

17. Lifting. No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the Division.

(See last column for "Excerpts from Labor Code," Section 1252.)

18. Seats. Suitable seats shall be provided for all female employees. When the nature of the work requires standing, an adequate number of said seats shall be placed adjacent to the work area and employees shall be permitted to use such seats when not engaged in the active duties of their employment.

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19. Floors. (a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth, and tight.

(c) Where wet processes are employed, the floor shall be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by the employer.

20. Cleanliness and Upkeep. Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

21. Lighting. All establishments in which women or minors are employed shall be properly lighted during working hours. Sources of illumination shall be of such nature and so placed that the light furnished will be adequate for efficient work and prevent unnecessary strain on the vision, or glare in the eyes of the workers.

22. Ventilation. Each room in which women or minors are employed shall be properly ventilated.

23. Temperature. The nature of the employment permitting, there shall be maintained in each workroom a minimum temperature of 65° F., and, weather permitting, a maximum of 75° F. If, owing to the nature of the process, excessive heat or humidity is created in the workroom, special devices shall be installed to reduce such excessive heat or humidity. Where the nature of the employment will not permit a temperature of 65° F., a heated room shall be provided to which employees may retire for warmth.

24. Exits. Except as otherwise herein provided, every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two (2) exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. From the third or higher floors at least one means of egress shall be an accepted fire exit, and additional fire exits may be ordered where necessary. Exits shall be plainly marked and kept unlocked during working hours.

In facilities constructed prior to August 1, 1952, the above requirement of two exits shall not apply to a basement, first floor, second floor, mezzanine, or balcony when the premises cannot be altered to provide a second exit and the activities carried on in the establishment do not create an undue hazard.

(For other regulations regarding exits, see Title 8, Chapter 4, California Administrative Code.)



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MERCANTILE

ORDER NUMBER 7-68

Title & Code, Admin. Code 11515

INDUSTRIAL WELFARE COMMISSION ORDER

WAGES, HOURS, AND WORKING CO IN THE MERCA



STATE OF CALIFORNIA—DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF INDUSTRIAL WELFARE

ADMINISTRATIVE OFFICE: 455 GOLDEN GATE AVENUE, SAN FRANCISCO

323 Chester Ave., Berkeley
548 Broadway, St. Castro
619 Second St., Fresno
330 E. La Brea Ave., Inglewood
230 E. North St., Long Beach

187 A. Broadway, Los Angeles
1111 Jackson St., Oakland
2119 Alameda St., Redding
819 Forum Bldg., Sacramento
340 W. Third St., San Bernardino
1226 Front St., San Diego

588 N. First St., San Jose
1424 W. 17th St., Santa Ana
411 E. Canon Perdido, Santa Barbara
730 Mendocino Ave., Santa Rosa
21 E. Channel St., Stockton
8721 Van Ness Blvd., San Mateo

TO WHOM IT MAY CONCERN:

TAKE NOTICE: That pursuant to and by virtue of authority vested in it by Sections 1171 through 1204 of the Labor Code of the State of California, and after public hearing duly had, notice of said hearing having been duly given in the manner provided by law, the Industrial Welfare Commission, upon its own motion, having found and concluded that the Mercantile Industry Order, Number 7-63, enacted by the Industrial Welfare Commission on April 18, 1963, should be altered and amended:

NOW, THEREFORE, The Industrial Welfare Commission of the State of California does hereby alter and amend said Mercantile Industry Order, Number 7-63, and does hereby enact its amended Order as follows:

No person, as defined in Section 18 of the Labor Code, shall employ any woman or minor in any establishment, industry, or occupation in which the wages, hours, or working conditions are not in conformance with the standards herein-after set forth:

1. APPLICABILITY OF ORDER

This Order shall apply to all women and minors employed in the mercantile industry whether, paid on a time, piece rate, commission, or other basis, except that the provisions of Sections 3 through 12 shall not apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

- The employee is engaged in work which is predominantly intellectual, managerial, or creative and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$450 per month; or
- The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. DEFINITIONS

(a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail, or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

3. HOURS

(a) Unless otherwise provided by statute, no woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than five (5) days in any one week unless the employee receives one and one-half (1½) times her regular rate of pay for all work over forty (40) hours on the sixth (6th) day. Employment beyond eight (8) hours in any one day or more than six (6) days in any one week is permissible only under the following conditions:

- In an emergency as defined in Section 2(j) above or
- During periods when it is necessary to process perishable products to prevent such products from spoiling; provided that
- The employee is compensated for such overtime at

the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(c) Amounts may be credited as part of the minimum wage for gratuities received by any woman or minor engaged in an occupation in which the employee customarily and regularly receives more than twenty dollars (\$20) per month in gratuities. The credited amount shall in no case exceed twenty cents (20¢) per hour.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar and sixty-five cents (\$1.65) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

Split shift means a work schedule which is interrupted by nonworking periods other than bona fide rest or meal periods.

5. REPORTING TIME PAY

Each day 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, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

6. PERMIT FOR HANDICAPPED WORKERS

A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. RECORDS

(a) Every employer shall keep accurate information with respect to each employee as follows:

- Full name, home address, occupation and social security number.
- Birth date, if under eighteen (18) years, and designation as a minor.
- Time records showing all in-and-out time which shall be recorded when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Such records shall be available to employees for inspection on request. Meal periods during which operations cease and authorized rest periods need not be recorded.
- Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.
- Total hours worked in the payroll period.
- When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing the payroll period covered, gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, 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. Such records shall be available to employees for inspection on request.

(d) Clocks shall be provided in all major work areas.

8. CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the wage or require any refund of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, 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.

9. UNIFORMS, EQUIPMENT AND PROTECTIVE GARMENTS

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

(b) Except as provided in subsection (d) of this section, 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 em-

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work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

3. HOURS

(a) Unless otherwise provided by statute*, no woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than five (5) days in any one week unless the employee receives one and one-half (1½) times her regular rate of pay for all work over forty (40) hours in the sixth (6th) day. Employment beyond eight (8) hours in any one day or more than six (6) days in any one week is permissible only under the following conditions:

(1) In an emergency as defined in Section 2(i) above or

(2) During periods when it is necessary to process perishable products to prevent such products from spoiling; provided that

(3) The employee is compensated for such overtime at not less than:

(A) One and one-half (1½) 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 day, and for the first eight (8) hours worked on the seventh (7th) day; and

(B) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one day, and for all hours worked in excess of eight (8) hours on the seventh (7th) day.

* See last column for "Emergency from Labor Code," Sections 1296-1298.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week. One and one-half (1½) times the regular rate of pay shall be paid for all work over forty (40) hours on the sixth (6th) day. No minor shall be employed before 5 o'clock in the morning, or after 10 o'clock in the evening.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) The night (8) hours of employment shall be performed within a period of not more than twelve (12) hours. Twelve (12) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 5 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable sheltered place shall be provided in which to consume such food and drink.

NOTE: Refer to State Labor Code for additional restrictions on working hours of minors.

4. MINIMUM WAGES

(a) Every employer shall pay to each woman and minor employee wages not less than one dollar and sixty-five cents (\$1.65) per hour for all hours worked; except that a lesser rate but not less than one dollar and thirty-five cents (\$1.35) per hour may be paid to:

(1) **LEARNERS.** Women eighteen (18) years of age or over, during their first one hundred sixty (160) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one (1) learner at said lesser rate.

(2) **MINORS.** provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one (1) minor at said lesser rate.

(3) **STUDENT WORKERS** (boys under 18 and girls under 21) enrolled in an educational institution employed part-time, after school or when school is not in session, with no limitation on the number employed at the lesser rate.

(b) Every employer shall pay to each employee, on the established pay day for the period involved, not less than

of the check, draft, or voucher paying the employee's wages, or separately, as itemized statement in writing showing the payroll period covered, gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, 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. Such records shall be available to employees for inspection on request.

(d) Clocks shall be provided in all major work areas.

5. CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the wage or require any refund of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, 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.

9. UNIFORMS, EQUIPMENT AND PROTECTIVE GARMENTS

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

(b) Except as provided in subsection (d) of this section, 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 employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, rollers, clips, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.

(c) Except as provided in subsection (d) of this section, when protective garments or protective equipment are required by the employer, or are necessary to safeguard the health of, or prevent injury to, an employee, such garments or equipment shall be provided, maintained and paid for by the employer.

(d) An employer may require a reasonable deposit as security for the return of the items furnished by him under the provisions of subsections (a), (b), and (c) of this section upon issuance of a receipt to the employee for such deposit. All items furnished by the employer shall be returned by the employee on completion of the job.

10. MEALS AND LODGING

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

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room Occupied Alone	\$10.00 per week
Room Shared	\$ 8.00 per week
Apartment—Two-thirds (⅔) of the ordinary rental value, and in no event more than	\$115.00 per month
Breakfast	75 cents
Meals: Lunch	\$1.00
Dinner	\$1.35

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.

Deductions shall not be made for meals not eaten nor for lodging not used. Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift.

11. MEAL PERIODS

(a) No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of employer and employee. 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.

(b) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. REST PERIODS

Every employer shall authorize and permit all employees to take rest periods which, insofar as practicable, shall be in

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DITIONS FOR WOMEN AND MINORS TILE INDUSTRY

the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of the (10) minutes 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 (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

13. DRESSING AND REST ROOMS

(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 nonworking hours. When the occupation requires a change of clothing, a change room or equivalent space with adequate heat and light shall be provided where women employees may change their clothing in privacy and comfort. This room shall be separate from the toilet room and it shall be kept reasonably clean and sanitary.

(b) When the number of females employed at one time is more than ten (10) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in a rest room for the exclusive use of women and separated from the toilet room. The enclosing walls of the rest room shall be of solid construction and extend to a ceiling. In new installations a minimum of sixty (60) square feet of floor space shall be provided for each couch. The rest room shall have adequate ventilation, heat and light and shall be open to the employees during all working hours.

14. DRINKING WATER AND WASHING FACILITIES

(a) Each place of employment shall be supplied with pure, wholesome and potable water for drinking purposes, located conveniently to employees during working hours. Individual drinking cups shall be provided, or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available. If conditions permit, the temperature of the water supplied for drinking purposes should not be lower than 40° F. or greater than 50° F., and preferably between 45° F. and 50° F.

(b) For every twenty-five (25) women employees or fraction thereof, there shall be provided one (1) wash basin with hot and cold running water*, or if group washing facilities are provided, twenty-four (24) inches of sink space with individual hot and cold water faucets* shall be considered to equal one (1) such wash basin. Such washing facilities shall be kept clean and in sanitary condition.

*It is understood that this requirement is not where necessary providing plumbing fixtures properly treat water from a water source.

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited; mechanically controlled, properly serviced, continuous cloth towels are permissible.

15. TOILET ROOMS

(a) NUMBER. Separate toilet facilities shall be provided and marked for women employees in the following number except as otherwise provided:

Where the number of females employed at one time is between:	The number of toilet stalls shall be:
1-15	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

*Where there are less than a total of 15 employees employed at a place of employment, the same facilities may be used by both sexes (see Title 2, California Administrative Code, Section 11414) for unisex use in such premises as follows:

(b) GENERAL CONSTRUCTION.

(1) Each water closet shall be in a separate compartment, not less than thirty (30) inches in width, equipped with a door and latch or bolt.

(2) Entrances to toilet rooms shall be effectively screened so that no compartment is visible from any work area.

(3) Walls of the toilet rooms shall extend to the ceiling.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed or coved.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and nonabsorbent, and all painted surfaces shall be a light color.

(c) SUPPLIES. An adequate supply of toilet paper in a proper holder shall be provided and maintained in each water closet. Sanitary napkins shall be readily obtainable at a reasonable price, and a suitable means for their disposal shall be provided in each toilet room.

(d) LOCATION. Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's work place unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than authorized rest periods shall be authorized for women and

(e) MAINTENANCE. Toilet rooms shall be kept clean

and shall be kept in good repair, and shall be kept free of any offensive odors.

room, special devices shall be installed to reduce such excessive heat or humidity. Where the nature of the employment requires a temperature of less than 65° F., a heated room shall be provided to which employees may retire for warmth and such room shall be maintained at not less than 72° F. during working hours.

(c) A minimum temperature of 72° F. shall be maintained in the rest room and dressing room during working hours.

24. EXITS

In general, stairs, exits, and smokeproof enclosures shall be provided as specified in Article 31, Title 24, California Administrative Code.

EXCEPTIONS:

(a) Every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two (2) approved exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. Exits shall be plainly marked and kept unlocked during working hours.

(b) The requirement of two (2) exits shall not apply for single story buildings if, because of the number of persons, occupancy, and hazard, one (1) exit is sufficient under the minimum exit facilities required by Article 33, Title 24, California Administrative Code and the enforcing agency having jurisdiction.

25. ELEVATORS

When females are employed on the fourth or higher floors, adequate elevator service shall be provided.

26. EXEMPTIONS

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7 pertaining to the location of records, or Sections 11 through 25 of this Order, would not materially affect the comfort, health, or safety of employees and would work an undue hardship on the employer, exemption may be made at the discretion of said Division, provided such exemption, if pertaining to exits, has the written concurrence of other agencies having jurisdiction. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

27. FILING REPORTS

Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

28. INSPECTION

The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and in question all employees for such purposes.

29. PENALTIES

Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both.

(See last sentence for "Penalties from Labor Code" Section 1192.)

30. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in its area frequented by women and minors where it may be easily read during the work day.

Dated at Los Angeles, California, this twenty-sixth day of September, 1967.

Order 7-53, enacted April 15, 1963, is hereby rescinded as of and the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

NORMAN S. LEZAR, Chairman

DOROTHY COLTON

BURT E. COMPAGNON

J. J. ROEMER

THEODORE J. TONE

Virginia Allee, Chief
Division of Industrial Welfare

EXCERPTS FROM STATE LABOR CODE

Section 114. "Person" means any person, partnership, association, partnership, business trust, or corporation.

Section 114.5. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.6. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.7. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.8. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.9. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.10. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.11. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.12. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.13. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.14. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.15. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.16. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.17. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.18. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.19. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

Section 114.20. Every employer or other person who is liable for any or all of the duties, or any or all of the penalties, or any or all of the provisions of this Code, shall be liable for the same as if he were the employer.

employment, the same facilities may be used by both sexes. (See Title 3, California Administrative Code, Section 1391(a) for requirements in non-industrial plants.)

(b) GENERAL CONSTRUCTION.

- (1) Each water closet shall be in a separate compartment, not less than thirty (30) inches in width, equipped with a door and latch or bolt.
- (2) Entrances to toilet rooms shall be effectively screened so that no compartment is visible from any work area.
- (3) Walls of the toilet rooms shall extend to the ceiling.
- (4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed or coved.
- (5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and nonabsorbent, and all painted surfaces shall be a light color.

(c) **SUPPLIES.** An adequate supply of toilet paper in a proper holder shall be provided and maintained in each water closet. Sanitary napkins shall be readily obtainable at a reasonable price, and a suitable means for their disposal shall be provided in each toilet room.

(d) **LOCATION.** Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's work place unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) **MAINTENANCE.** Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

16. FIRST AID

Adequate first aid supplies shall be provided in a clean and sanitary disproof container. First aid supplies shall not be allowed to become stale and/or outgated. A responsible person who is familiar with procedures for obtaining medical assistance, ambulance service, and/or hospitalization in emergency situations shall be designated.

17. LIFTING

No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the Division.

(See last column for "Exemption from Labor Code," Section 1391.1)

18. SEATS

(a) All working female employees shall be provided with suitable seats when, by nature of the work permits.

(b) When female 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 adjacent to the work area and employees shall be permitted to use such seats.

19. FLOORS

(a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth, and tight.

(c) Where wet processes are employed, the floor shall be properly drained. When floors are wet or slippery, ricks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by and maintained by the employer.

20. CLEANLINESS AND UPKEEP

Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

21. LIGHTING

(a) Each work area and work station shall have sufficient natural or artificial light to meet accepted standards for the nature of the work performed.

(b) Toilet compartments, dressing rooms and rest rooms shall be provided with natural or artificial light equivalent in a minimum of five (5) foot candles of light measured thirty (30) inches above the floor.

22. VENTILATION

(a) Each workroom in which women or minors are employed shall have sufficient ventilation to provide a reasonable condition of comfort for employees working therein consistent with the nature of the processes and the work performed.

(b) Adequate ventilation for the toilet room, dressing room and rest room shall mean that, by artificial or natural means, a minimum of four (4) changes of air per hour are provided.

23. TEMPERATURE

(a) The temperature maintained in each workroom shall provide reasonable comfort consistent with accepted standards for the nature of the process and the work performed.

(b) If excessive heat or humidity is created in the work-

ing shall continue to be given full force, and effect as if the part so held invalid or unconstitutional had not been included herein.

31. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in an area frequented by women and minors where it may be easily read during the work day.

Dated at Los Angeles, California, this twenty-sixth day of September, 1967.

Order 7-63, enacted April 18, 1963, is hereby rescinded as and of the date when this Order becomes effective.

INDUSTRIAL WELFARE COMMISSION STATE OF CALIFORNIA

NORMAN S. LEVIN, Chairman
DONOTHY CILTON
RUTH E. COMPTON
J. J. RODRIGUEZ
THEODORE J. TODD

Virginia Allen, Chief
Division of Industrial Welfare

EXCERPTS FROM STATE LABOR CODE

Section 18. "Person" means any person, association, organization, partnership,

business trust, or corporation.

Section 190. Every person who is employed by another person individually as an

employee, or as a member of a partnership, or as a partner in a corporation, or as a

partner in a partnership, or as a partner in a corporation, or as a partner in a

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IN A CONSPICUOUS PLACE

NOTE: Beginning with the first Register printed in 1953, a system of numbering the Registers to correspond to the year, i.e., 53, No. 1, has been adopted.

Register 68, No. 20—5-25-68)

State of California

California Administrative Register 68, No. 20

(May 25, 1968)

Amendments and Additions to Rules and Regulations of

- Title 8. Division of Industrial Welfare
- Title 13. Air Resources Board
- Title 14. Fish and Game Commission
- Title 17. Department of Public Health

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X re T.8 sec. 11215

atives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

29. Penalties. Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both. (See last column for "Excerpts from Labor Code," Section 1199.)

30. Separability. If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. Posting of Order. Every employer shall keep a copy of this order posted in an area frequented by women and minors where it may be easily read during the work day.

NOTE: Authority cited for Article 7: Sections 1171 through 1204, Labor Code. Additional authority cited: Sections 1182 and 1184, Labor Code.

HISTORY: 1. Amendment filed 11-10-67; designated effective 2-1-68. Approved by State Building Standards Commission (Register 67, No. 45).
2. Amendment of subsections 3(b) and 4(a) (3) filed 5-22-68 as an emergency; designated effective 5-27-68 (Register 68, No. 20).

Article 8. Mercantile Industry

(Order No. 7-68; Effective February 1, 1968)

11215. Order Governing Wages, Hours, and Working Conditions for Women and Minors in the Mercantile Industry. 1. Applicability of Order. This Order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that the provisions of Sections 3 through 12 shall not apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$450 per month; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized:

professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

3. Hours. (a) Unless otherwise provided by statute, no woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than five (5) days in any one week unless the employee receives one and one-half (1½) times her regular rate of pay for all work over forty (40) hours on the sixth (6th) day. Employment beyond eight (8) hours in any one day or more than six (6) days in any one week is permissible only under the following conditions:

- (1) In an emergency as defined in Section 2(j) above; or
- (2) During periods when it is necessary to process perishable products to prevent such products from spoiling; provided that
- (3) The employee is compensated for such overtime at not less than:

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(A) One and one-half (1½) 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 day, and for the first eight (8) hours worked on the seventh (7th) day; and

(B) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one day, and for all hours worked in excess of eight (8) hours on the seventh (7th) day.

* See last column for "Exemptions from Labor Code," Sections 1350-1356.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week, or before 5 o'clock in the morning, or after 10 o'clock in the evening.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) The eight (8) hours of employment shall be performed within a period of not more than twelve (12) hours. Twelve (12) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable sheltered place shall be provided in which to consume such food and drink.

Note: Refer to State Labor Code for additional restrictions on working hours of minors.

4. Minimum Wages. (a) Every employer shall pay to each woman and minor employee wages not less than one dollar and sixty-five cents (\$1.65) per hour for all hours worked; except that as lesser rate but not less than one dollar and thirty-five cents (\$1.35) per hour may be paid to:

(1) Learners. Women eighteen (18) years of age or over, during their first one hundred sixty (160) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one (1) learner at said lesser rate.

(2) Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one (1) minor at said lesser rate.

(3) Student Workers (boys under 18 and girls under 25) enrolled in high school, or enrolled in an accredited two-year junior college or accredited four-year public or private college or university provided the student is pursuing a course of study aimed at receiving a degree and attending school at least nine (9) hours per week or its equivalent, with no limitation on the number employed at the lesser rate.

(b) Every employer shall pay to each employee, on the established pay day 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) Amounts may be credited as part of the minimum wage for gratuities received by any woman or minor engaged in an occupation in which the employee customarily and regularly receives more than twenty dollars (\$20) per month in gratuities. The credited amount shall in no case exceed twenty cents (20¢) per hour.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar and sixty-five cents (\$1.65) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

"Split shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

5. Reporting Time Pay. Each day 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, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

6. Permit for Handicapped Workers. A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. Records. (a) Every employer shall keep accurate information with respect to each employee as follows:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under eighteen (18) years, and designation as a minor.

(3) Time records showing all in-and-out time which shall be recorded when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Such records shall be available

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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.

(6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing the payroll period covered, gross wages paid, and all deductions from such wages.

(c) All required records shall be in the English language, 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. Such records shall be available to employees for inspection on request.

(d) Clocks shall be provided in all major work areas.

8. Cash Shortage and Breakage. No employer shall make any deduction from the wage or require any refund of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, 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.

9. Uniforms, Equipment and Protective Garments. (a) Except as provided in subsection (d) of this section, when uniforms are required by the employer to be worn by the employee as a condition of employment, such uniform shall be provided and maintained by the employer. The term "uniform" includes wearing apparel and accessories of distinctive design or color.

(b) Except as provided in subsection (d) of this section, 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 employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, rollers, clips, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.

(c) Except as provided in subsection (d) of this section, when protective garments or protective equipment are required by the employer, or are necessary to safeguard the health of, or prevent injury

to an employee, such garments or equipment shall be provided, maintained and paid for by the employer.

(d) An employer may require a reasonable deposit as security for the return of the items furnished by him under the provisions of subsections (a), (b), and (c) of this section upon issuance of a receipt to the employee for such deposit. All items furnished by the employer shall be returned by the employee on completion of the job.

10. Meals and Lodging. "Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

When meals or lodging are furnished by the employer as part of the minimum wage, they may not be evaluated in excess of the following:

Room Occupied Alone	\$10.00 per week
Room Shared	\$ 8.00 per week
Apartment—Two-thirds (2/3) of the ordinary rental value and is no event more than	\$115.00 per month
Meals: Breakfast	75 cents
Lunch	\$1.00
Dinner	\$1.25

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.

Deductions shall not be made for meals not eaten nor for lodging not used. Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift.

11. Meal Periods. (a) No employer shall employ any woman or minor for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of employer and employee. 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.

(b) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. Rest Periods. 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 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 (3½) hours. Authorized rest period

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time shall be counted as hours worked for which there shall be no deduction from wages.

13. Dressing and Rest Rooms. (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 nonworking hours. When the occupation requires a change of clothing, a change room or equivalent space with adequate heat and light shall be provided where women employees may change their clothing in privacy and comfort. This room shall be separate from the toilet room and it shall be kept reasonably clean and sanitary.

(b) When the number of females employed at one time is more than ten (10) and less than fifty (50) there shall be provided one couch, and thereafter at least one additional couch shall be provided for every one hundred (100) female employees or fraction thereof. Beds in hospital rooms may not be counted in the number of required couches.

(c) Couches shall be placed in a rest room for the exclusive use of women and separated from the toilet room. The enclosing walls of the rest room shall be of solid construction and extend to a ceiling. In new installations a minimum of sixty (60) square feet of floor space shall be provided for each couch. The rest room shall have adequate ventilation, heat and light and shall be open to the employees during all working hours.

14. Drinking Water and Washing Facilities. (a) Each place of employment shall be supplied with pure, wholesome and potable water for drinking purposes, located conveniently to employees during working hours. Individual drinking cups shall be provided, or sanitary drinking fountains shall be installed and so regulated that a jet of at least two (2) inches shall be constantly available. If conditions permit, the temperature of the water supplied for drinking purposes should not be lower than 40° F. or greater than 80° F., and preferably between 45° F. and 50° F.

(b) For every twenty-five (25) women employees or fraction thereof, there shall be provided one (1) wash basin with hot and cold running water,* or if group washing facilities are provided, twenty-four (24) inches of sink space with individual hot and cold water faucets* shall be considered to equal one (1) such wash basin. Such washing facilities shall be kept clean and in sanitary condition.

* It is understood that this requirement is met when modern pre-mixing plumbing fixtures provide tepid water from a single faucet.

(c) Sufficient soap and either individual cloth or paper towels or hot air blowers shall be supplied. Towels used in common are prohibited; mechanically controlled, properly serviced, continuous cloth towels are permissible.

15. Toilet Rooms. (a) Number. Separate toilet facilities shall be provided and marked for women employees in the following number except as otherwise provided:*

Where the number of females employed at one time is between:

1-15*	1
16-30	2
31-45	3
46-60	4
61-80	5
81-100	6

and thereafter one toilet for every twenty-five (25) female employees or major fraction thereof.

* When there are less than a total of five (5) employees employed at a place of employment, the same facilities may be used by both sexes. (See Title 3, California Administrative Code, Section 336(a) for requirements in meat processing plants.)

(b) General Construction. (1) Each water closet shall be in a separate compartment, not less than thirty (30) inches in width, equipped with a door and latch or bolt.

(2) Entrances to toilet rooms shall be effectively screened so that no compartment is visible from any work area.

(3) Walls of the toilet rooms shall extend to the ceiling.

(4) Floors shall be of cement, terrazzo, tile, glazed brick, or other composition which is impervious to moisture, and the angle formed by the floor and wall shall be sealed or coved.

(5) Surfaces of walls, partitions, doors, fixtures, toilet seats, bowls, and other equipment shall be smooth and non-absorbent, and all painted surfaces shall be a light color.

(c) Supplies. An adequate supply of toilet paper in a proper holder shall be provided and maintained in each water closet. Sanitary napkins shall be readily obtainable at a reasonable price, and a suitable means for their disposal shall be provided in each toilet room.

(d) Location. Toilet rooms shall be conveniently located on the immediate premises and not more than one floor immediately above or below the employee's workplace unless adequate elevator service is available. In existing establishments when, in the judgment of the Division, a toilet cannot be located on the premises, relief periods other than required rest periods shall be authorized for women and minors.

(e) Maintenance. Toilet rooms shall be kept clean and sanitary, and shall contain only such equipment, fixtures, and supplies as properly belong therein.

16. First Aid. Adequate first aid supplies shall be provided in a clean and sanitary dustproof container. First aid supplies shall not be allowed to become stale and/or outdated. A responsible person who is familiar with procedures for obtaining medical assistance, ambulance service, and/or hospitalization in emergency situations shall be designated.



17. **Lifting.** No female employee shall be required to lift or carry any object weighing in excess of twenty-five (25) pounds, except upon permit from the Division.

(See last column for "Excerpts from Labor Code," Section 1252.)

18. **Seats.** (a) All working female employees shall be provided with suitable seats when the nature of the work permits.

(b) When female 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 adjacent to the work area and employees shall be permitted to use such seats.

19. **Floors.** (a) Unless the surface of the floor is of wood, cork, rubber composition, linoleum, asphalt tile, or other material of comparable resilience, the floor surface in the work area where women or minors stand in the performance of their duties shall be supplied with a covering material of suitable resilience.

(b) The floors and stairs of every establishment shall be safe, smooth, and tight.

(c) Where wet processes are employed, the floor shall be properly drained. When floors are wet or slippery, racks or gratings of sufficient height and free from hazard shall be provided. If the nature of the employment will not permit the use of racks or gratings, protection for the feet shall be provided by and maintained by the employer.

20. **Cleanliness and Upkeep.** Premises, equipment, and fixtures shall be kept safe, clean, sanitary, and in good repair.

21. **Lighting.** (a) Each work area and work station shall have sufficient natural or artificial light to meet accepted standards for the nature of the work performed.

(b) Toilet compartments, dressing rooms and rest rooms shall be provided with natural or artificial light equivalent to a minimum of five (5) foot candles of light measured thirty (30) inches above the floor.

22. **Ventilation.** (a) Each workroom in which women or minors are employed shall have sufficient ventilation to provide a reasonable condition of comfort for employees working therein consistent with the nature of the processes and the work performed.

(b) Adequate ventilation for the toilet room, dressing room and rest room shall mean that, by artificial or natural means, a minimum of four (4) changes of air per hour are provided.

23. **Temperature.** (a) The temperature maintained in each workroom shall provide reasonable comfort consistent with accepted standards for the nature of the process and the work performed.

(b) If excessive heat or humidity is created in the workroom, special devices shall be installed to reduce such excessive heat or humidity. Where the nature of the employment requires a temperature of less than 65° F., a heated room shall be provided to which employees may retire for warmth and such room shall be maintained at not less than 72° F. during working hours.

(c) A minimum temperature of 72° F. shall be maintained in the rest room and dressing room during working hours.

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24. **Exits.** In general, stairs, exits, and smokeproof enclosures shall be provided as specified in Article 33, Title 24, California Administrative Code.

Exceptions:

(a) Every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two (2) approved exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. Exits shall be plainly marked and kept unlocked during working hours.

(b) The requirement of two (2) exits shall not apply for single story buildings if, because of the number of persons, occupancy, and hazard, one (1) exit is sufficient under the minimum exit facilities required by Article 33, Title 24, California Administrative Code and the enforcing agency having jurisdiction.

25. **Elevators.** When females are employed on the fourth or higher floors, adequate elevator service shall be provided.

26. **Exemptions.** If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7 pertaining to the location of records, or Sections 11 through 25 of this Order, would not materially affect the comfort, health, or safety of employees and would work an undue hardship on the employer, exemption may be made at the discretion of said Division, provided such exemption, if pertaining to exits, has the written concurrence of other agencies having jurisdiction. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

27. **Filing Reports.** Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

28. **Inspection.** The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

29. **Penalties.** Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both. (See last column for "Excerpts from Labor Code," Section 1199.)

30. **Separability.** If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, (800) 666-1917

word, or portion of this Order shall be held invalid or unconstitutional, or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. Posting of Order. Every employer shall keep a copy of this Order posted in an area frequented by women and minors where it may be easily read during the work day.

NOTE: Authority cited: Sections 1182 and 1184, Labor Code.

HISTORY: I. Amendment filed 11-10-67; designated effective 2-1-68. Approved by State Building Standards Commission (Register 67, No. 45). For prior history, see Register 63, No. 9.

2. Amendment of subsections 3(b) and 4(a) (3) filed 5-22-68 as an emergency; designated effective 6-27-68 (Register 68, No. 20).

Article 9. Motion Picture Industry

(Order No. 16A. Effective April 11, 1931)

NOTE: Authority cited: Section 1182, Labor Code.

HISTORY: 1. Repealer of Article 9 (§§ 11260 through 11261) filed 10-28-57; designated effective 1-1-58 (Register 57, No. 19). For former Article 9, see Register 9.

Article 10. Motion Picture Industry

(Order No. 12-68, Effective February 1, 1968)

11280. Order Governing Wages, Hours, and Working Conditions for Women and Minors in the Motion Picture Industry. 1. Applicability of Order. This Order shall apply to all women and minors employed in the motion picture industry, including all extra players, except that the provisions of this Order shall not apply to professional actors or actresses, nor shall Sections 8(a), (b), (c), (d), and Sections 4 through 12 apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is a guaranteed weekly rate of \$103.35 or the equivalent of \$450 per month but in no case shall daily paid employees hereunder be exempt; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.



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NOTICE: Beginning with the first Register printed in 1953, a system of numbering the Registers to correspond to the year, i.e., 53, No. 1, has been adopted.

(Register 68, No. 36—9-28-68)

State of California

California Administrative Register 68, No. 36

(September 28, 1968)

Amendments and Additions to Rules and Regulations of

Title	2.	State Controller
Title	4.	Bureau of Weights and Measures
Title	5.	Education
Title	8.	Division of Industrial Welfare
Title	13.	Department of the California Highway Patrol
Title	17.	Department of Public Health



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X re T.8 sec. 11215

28. Inspection. The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

29. Penalties. Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both. (See last column for "Excerpts from Labor Code," Section 1199.)

30. Separability. If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order shall be held invalid or unconstitutional, or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. Posting of Order. Every employer shall keep a copy of this order posted in an area frequented by women and minors where it may be easily read during the work day.

Notes: Authority cited for Article 7: Sections 1171 through 1204, Labor Code. Additional authority cited: Sections 1182 and 1184, Labor Code.

History: 1. Amendment filed 11-10-67; designated effective 2-1-68. Approved by State Building Standards Commission (Register 67, No. 45).

2. Amendment of subsections 3(b) and 4(a)(3) filed 5-22-68 as an emergency; designated effective 5-27-68 (Register 68, No. 20).

3. Repealer and reinstatement of former subsections 3(b) and 4(a)(3) pursuant to Sec. 11422.1, Gov. Code; effective 9-24-68 (Register 68, No. 36).

Article 8. Mercantile Industry

(Order No. 7-68, Effective February 1, 1968)

11215. Order Governing Wages, Hours, and Working Conditions for Women and Minors in the Mercantile Industry. 1. Applicability of Order. This Order shall apply to all women and minors employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that the provisions of Sections 3 through 12 shall not apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

(a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$450 per month; or

(b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions:

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professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.

(b) "Division" means the Division of Industrial Welfare of the State of California.

(c) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities.

(d) "Employ" means to engage, suffer, or permit to work.

(e) "Employee" means any woman or minor employed by an employer.

(f) "Employer" means any person, as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a woman or minor.

(g) "Minor" means, for the purpose of this Order, a male or female person under the age of eighteen (18) years.

(h) "Hours Worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(i) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the California State Board of Education or teaching in an accredited college or university.

(j) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(k) "Wages" means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

8. Hours. (a) Unless otherwise provided by statute, no woman eighteen (18) years of age or over shall be employed more than eight (8) hours in any one day nor more than five (5) days in any one week unless the employee receives one and one-half (1½) times her regular rate of pay for all work over forty (40) hours on the sixth (6th) day. Employment beyond eight (8) hours in any one day or more than six (6) days in any one week is permissible only under the following conditions:

(1) In an emergency as defined in Section 2(j) above; or

(2) During periods when it is necessary to process perishable products to prevent such products from spoiling; provided that

(3) The employee is compensated for such overtime at not less than:

(A) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (800) 666-7647

(8) hours up to and including twelve (12) hours in any one day, and for the first eight (8) hours worked on the seventh (7th) day; and

(B) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one day, and for all hours worked in excess of eight (8) hours on the seventh (7th) day.

* See last column for "Excerpts from Labor Code," Sections 1350-1354.

(b) No minor shall be employed more than eight (8) hours in any one day nor more than six (6) days in any one week. One and one-half (1½) times the regular rate of pay shall be paid for all work over forty (40) hours on the sixth (6th) day. No minors shall be employed before 5 o'clock in the morning or after 10 o'clock in the evening.

(c) An employee may be employed seven (7) days in one week when the total hours of employment during said week do not exceed thirty (30) and the total hours of employment in any one day thereof do not exceed six (6).

(d) The eight (8) hours of employment shall be performed within a period of not more than twelve (12) hours. Twelve (12) hours shall elapse between the end of one work day of the employee and the beginning of the next, except when there is a bona fide change of shift, but in no event shall the elapsed time be less than eight (8) hours.

(e) No woman employee shall be required to report for work or be dismissed from work between the hours of 10 p.m. and 6 a.m. unless suitable transportation is available. If a meal period occurs during these hours, facilities shall be available for securing hot food or drink, or for heating food and drink; and a suitable sheltered place shall be provided in which to consume such food and drink.

Note: Refer to State Labor Code for additional restrictions on working hours of minors.

4. Minimum Wages. (a) Every employer shall pay to each woman and minor employee wages not less than one dollar and sixty-five cents (\$1.65) per hour for all hours worked; except that a lesser rate but not less than one dollar and thirty-five cents (\$1.35) per hour may be paid to:

(1) Learners. Women eighteen (18) years of age or over, during their first one hundred sixty (160) hours of employment in skilled or semi-skilled occupations in which they have had no previous similar or related experience, provided that the number of women employed at such rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one (1) learner at said lesser rate.

(2) Minors, provided that the number of minors employed at said lesser rate shall not exceed ten percent (10%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ one (1) minor at said lesser rate.

(3) Student Workers. (boys under 18 and girls under 21) enrolled in an educational institution employed part-time, after school or when school is not in session, with no limitation on the number employed at the lesser rate.

(b) Every employer shall pay to each employee, on the established pay day 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) Amounts may be credited as part of the minimum wage for gratuities received by any woman or minor engaged in an occupation in which the employee customarily and regularly receives more than twenty dollars (\$20) per month in gratuities. The credited amount shall in no case exceed twenty cents (20¢) per hour.

(d) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

(e) On any day in which an employee works a split shift, one dollar and sixty-five cents (\$1.65) per day shall be paid in addition to the minimum wage except when the employee resides at the place of employment.

("Split shift" means a work schedule which is interrupted by non-working periods other than bona fide rest or meal periods.)

5. Reporting Time Pay. Each day 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, at the employee's regular rate of pay, which shall be not less than the minimum wage herein provided.

6. Permit for Handicapped Workers. A permit may be issued by the Commission authorizing employment of a woman or minor whose earning capacity is impaired by advanced age, physical disability, or mental deficiency, at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee.

7. Records. (a) Every employer shall keep accurate information with respect to each employee as follows:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under eighteen (18) years, and designation as a minor.

(3) Time records showing all in-and-out time which shall be recorded when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Such records shall be available

24. Exits. In general, stairs, exits, and smokeproof enclosures shall be provided as specified in Article 33, Title 24, California Administrative Code.

Exceptions:

(a) Every floor, basement, mezzanine, or balcony on which women or minors are employed shall have at least two (2) approved exits, remotely located from each other, access to which is unobstructed. Such exits shall be other than elevators. Exits shall be plainly marked and kept unlocked during working hours.

(b) The requirement of two (2) exits shall not apply for single story buildings if, because of the number of persons, occupancy, and hazard, one (1) exit is sufficient under the minimum exit facilities required by Article 33, Title 24, California Administrative Code and the enforcing agency having jurisdiction.

25. Elevators. When females are employed on the fourth or higher floors, adequate elevator service shall be provided.

26. Exemptions. If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7 pertaining to the location of records, or Sections 11 through 25 of this Order, would not materially affect the comfort, health, or safety of employees and would work an undue hardship on the employer, exemption may be made at the discretion of said Division, provided such exemption, if pertaining to exits, has the written concurrence of other agencies having jurisdiction. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

27. Filing Reports. Every employer shall furnish to the Commission and to the Division any and all reports or information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

28. Inspection. The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from any and all records and to question all employees for such purposes.

29. Penalties. Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California, and is punishable by fine or imprisonment, or both. (See last column for "Excerpts from Labor Code," Section 1199.)

30. Separability. If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, (800) 666-1917

to employees for inspection on request. 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.

(6) When a piece rate or incentive plan is in operation, a schedule of rates shall be available in the work area. An accurate production record shall be maintained by the employer. A copy of the production record shall be furnished to each employee, unless the employer's system of recording is acceptable to the Division.

(b) Every employer shall furnish to each employee at the time of payment of wages, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing the payroll period covered, gross wages paid and all deductions from such wages.

(c) All required records shall be in the English language, 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. Such records shall be available to employees for inspection on request.

(d) Clocks shall be provided in all major work areas.

8. Cash Shortage and Breakage. No employer shall make any deduction from the wage or require any refund of an employee for any cash shortage, breakage, or loss of equipment, notwithstanding any contract or arrangement to the contrary, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or wilful act, or by the gross negligence of the employee.

9. Uniforms, Equipment and Protective Garments. (a) Except as provided in subsection (d) of this section, when uniforms are required by the employer to be worn by the employee as a condition of employment, such uniform shall be provided and maintained by the employer. The term "uniform" includes wearing apparel and accessories of distinctive design or color.

(b) Except as provided in subsection (d) of this section, 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 employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, rollers, clips, hair-cutting scissors, combs, razors, and eyebrow tweezers. All other equipment and supplies of such employees shall be furnished by the employer.

(c) Except as provided in subsection (d) of this section, when protective garments or protective equipment are required by the employer, or are necessary to safeguard the health of, or prevent injury to, employees, such protective garments or equipment shall be provided and maintained by the employer.

(d) of this section, when protective garments or protective equipment are required by the employer, or are necessary to safeguard the health of, or prevent injury to, employees, such protective garments or equipment shall be provided and maintained by the employer.

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word, or portion of this Order shall be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

31. Posting of Order. Every employer shall keep a copy of this Order posted in an area frequented by women and minors where it may be easily read during the work day.

NOTE: Authority cited: Sections 1182 and 1184, Labor Code.

- HISTORY:** 1. Amendment filed 11-10-67; designated effective 2-1-68. Approved by State Building Standards Commission (Register 67, No. 46). For prior history, see Register 68, No. 9.
2. Amendment of subsections 3(b) and 4(a) (3) filed 5-22-68 as an emergency; designated effective 5-27-68 (Register 68, No. 20).
3. Repealer and reinstatement of former subsections 3(b) and 4(a) (3) pursuant to Sec. 11422.1, Gov. Code; effective 9-24-68 (Register 68, No. 36).

Article 9. Motion Picture Industry (Order No. 16A. Effective April 11, 1931)

NOTE: Authority cited: Section 1182, Labor Code.

- HISTORY:** 1. Repealer of Article 9 (§§ 11250 through 11261) filed 10-28-57; designated effective 1-1-58 (Register 57, No. 19). For former Article 9, see Register 9.

Article 10. Motion Picture Industry (Order No. 12-68, Effective February 1, 1968)

11280. Order Governing Wages, Hours, and Working Conditions for Women and Minors in the Motion Picture Industry. 1. Applicability of Order. This Order shall apply to all women and minors employed in the motion picture industry, including all extra players, except that the provisions of this Order shall not apply to professional actors or actresses, nor shall Sections 3(a), (b), (c), (d), and Sections 4 through 12 apply to women employed in administrative, executive, or professional capacities.

No woman shall be considered to be employed in an administrative, executive, or professional capacity unless one of the following conditions prevails:

- (a) The employee is engaged in work which is predominantly intellectual, managerial, or creative; and which requires exercise of discretion and independent judgment; and for which the remuneration is a guaranteed weekly rate of \$103.85 or the equivalent of \$450 per month, but in no case shall daily paid employees hereunder be exempt; or
- (b) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, architecture, engineering, teaching, or accounting.

2. Definitions. (a) "Commission" means the Industrial Welfare Commission of the State of California.



ORDER 7-76

Title 8, Calif.
Administrative
Code 11215

Replacing former
Orders 7-68 and 1-74
Effective October 18, 1976

INDUSTRIAL WELFARE COMMISSION WAGES, HOURS, AND WORKING MERCANTILE

TO WHOM IT MAY CONCERN:

TAKE NOTICE: That pursuant to the Legislature's 1973 mandate to the Industrial Welfare Commission to review, update and promulgate regulations necessary to provide adequate and reasonable wages, hours, and working conditions appropriate for all employees, and by virtue of authority vested in the Commission by Sections 1171 through 1204 of the Labor Code of the State of California, and after investigation and findings pursuant to Section 1178 and after receiving recommendations from duly appointed wage boards, and after consideration of all written material and information submitted, and after public hearings duly held, notice of said hearings having been duly given in the manner provided by law, the Industrial Welfare Commission, upon its own motion has found and concluded that its Mercantile Industry Order, Number 7-68, enacted on September 26, 1967 and its Minimum Wage Order 1-74 enacted on January 1, 1974, should be altered and amended.

NOW, THEREFORE, the Industrial Welfare Commission of the State of California does hereby alter and amend said Mercantile Industry Order, Number 7-68, and its Minimum Wage Order 1-74.

1. APPLICABILITY OF ORDER

This Order shall apply to all persons employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that:

(A) Provisions of Sections 3 through 12 shall not apply to persons employed in administrative, executive or professional capacities. No person shall be considered to be employed in an administrative, executive or professional capacity unless one of the following conditions prevails:

- (1) The employee is engaged in work which is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment, and for which the remuneration is not less than \$800.00 per month; or
- (2) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting.
- (B) The provisions of this Order shall not apply to employees directly employed by the State or any county, incorporated city or town or other municipal corporation, or to outside salespersons.
- (C) Provisions of this Order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer.

2. DEFINITIONS

- (A) "Commission" means the Industrial Welfare Commission of the State of California.
- (B) "Division" means the Division of Labor Standards Enforcement of the State of California.
- (C) "Mercantile industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail or for the purpose of renting goods or commodities.
- (D) "Employ" means to engage, suffer, or permit to work.
- (E) "Employee" means any person employed by an employer, and includes any lessee who is charged rent, or who pays rent for a chair, booth, or space and (1) who does not use his or her own funds to purchase requisite supplies, and (2) who does not maintain an appointment book separate and distinct from that of the establishment in which the space is located, and (3) who does not have a business license where applicable.
- (F) "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

State of California

Department of Industrial Relations

DIVISION OF LABOR STANDARDS ENFORCEMENT

Administrative headquarters
P.O. Box 603, San Francisco 94101

District offices:

225 Chester Ave., Bakersfield 93301
1290 Howard Ave., Burlingame 94010
380 North 11th St., El Centro 92243
619 Second St., Eureka 95501
2550 Mariposa St., Fresno 93721
520 North La Brea Ave., Inglewood 90302
230 East 4th St., Long Beach 90812
107 South Broadway, Los Angeles 90012
1111 Jackson St., Oakland 94607
8155 Van Nuys Blvd., Panorama City 91402
300 South Park Ave., Pomona 91769
2115 Alford Ave., Redding 96001
2422 Arden Way, Sacramento 95825
21 West Laurel Drive, Salinas 93901
303 West 3rd St., San Bernardino 92401
1350 Front St., San Diego 92101
453 Golden Gate Ave., San Francisco 94102
888 North 1st St., San Jose 95112
28 Civic Center Plaza, Santa Ana 92701
411 East Canon Perdido, Santa Barbara 93101
725 Farmer's Lane, Santa Rosa 95408
31 East Channel St., Stockton 95202
600 Marin St., Vallejo 94590

Labor Standards Enforcement is one of the eight major programs administered by the State Department of Industrial Relations to protect Californians at work.

less than the minimum wage required for adults.

VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from \$100 to \$5,000 as well as to criminal penalties provided herein. Refer to California Labor Code Sections 1280 to 1271 and 1290 to 1299 for additional restrictions on the employment of minors.

(F) An employee may be employed on seven (7) workdays in one workweek with no overtime pay required when the total hours of employment during such workweek do not exceed thirty (30) and the total hours of employment in any one workday thereof do not exceed six (6).

(G) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m., facilities shall be available for securing hot food or drink or for heating food or drink and a suitable sheltered place shall be provided in which to consume such food or drink.

(H) Except as provided in subsections (D), (E), and (G) above, this section shall not apply where the employer is obligated to provide premium wage rates for overtime work and to regulate the number of hours of work pursuant to a written collective bargaining agreement where such agreement covers employees who would otherwise be protected by this Order.

(I) The provisions of this section are not applicable to employees whose hours of service are regulated by the United States Department of Transportation Code of Federal Regulations, Title 49, Sections 393.1 to 393.12, Hours of Service of Motorists.

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(G) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(H) "Minor" means, for the purpose of this Order, any person under the age of eighteen (18) years.

(I) "Outside Salesperson" means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(J) "Split shift" means a work schedule which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(K) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university.

(L) "Wages" means all amounts paid for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation.

(M) "Workday" means any consecutive 24 hours beginning at the same time each calendar day.

(N) "Workweek" means any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

3. HOURS AND DAYS OF WORK

(A) No employee eighteen (18) years of age or over shall be employed more than eight (8) hours in any one workday or more than forty (40) hours in any one workweek unless the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over forty (40) hours in the workweek. Employment beyond eight (8) hours in any one workday or more than the (40) days in any one workweek is permissible provided the employee is compensated for such overtime at not less than

(1) One and one-half (1½) 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) workday; and

(2) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one workday and for all hours worked in excess of eight (8) hours on the seventh (7th) workday in any one workweek.

(B) No employer shall be deemed to have violated the provisions of the above subsection (A) by instituting, pursuant to a written agreement voluntarily executed by the employer and at least two-thirds (⅔) of the affected employees before the performance of the work, a regularly scheduled week of work which includes not more than four (4) working days of not more than ten (10) hours each, provided that

(1) The employer is not required to pay the premium wage rate prescribed in subsection (A) for the 9th and 10th hours worked during such workdays;

(2) If an employee on such a four-day schedule is required or permitted to work more than ten (10) hours in any workday, the premium wage rate provisions in subsection (A) above shall apply to such employee for those hours worked in excess of the 10th hour of that workday;

(3) Any employee on such a schedule who is required or permitted to work on more than four (4) workdays shall be compensated at the rate of not less than one and one-half (1½) times the employee's regular rate of pay for the first eight (8) hours on such additional workdays and double the employee's regular rate of pay for work in excess of eight (8) hours on those workdays.

(C) Provisions of subsections (A) and (B) above shall not apply to any employee whose earnings exceed one and one-half (1½) times the highest minimum wage if more than half (½) of that employee's compensation represents commissions.

(D) No minor shall be employed more than eight (8) hours in any one day or more than the (40) days in any one week. One and one-half (1½) times the minor's regular rate of pay shall be paid for all work over forty (40) hours in any one week. No minor shall be employed before 5 o'clock in the morning or after 10 o'clock in the evening, except that during any evening preceding a non-school day a minor may work the hours authorized by this section until 12:30 o'clock in the morning of such non-school day.

(E) Minors sixteen (16) years of age or older and under the age of eighteen (18) years who are enrolled in work experience education programs approved by the State Department of Education may work after 10 p.m. but not later than 12:30 a.m., providing such employment is not detrimental to the health, education or welfare of the minors and the approval of the parent and the work experience coordinator has been obtained. However, any such minor who works any time during the hours from 10 p.m. to 12:30 a.m. shall be paid for work during that time at a rate which is not

4. MINIMUM WAGES (See Order MW-78)

(A) Every employer shall pay to each employee wages not less than two dollars and fifty cents (\$2.50) per hour for all hours worked, 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 (see below the rate of pay shall be not less than two dollars and fifty cents (\$2.50) per hour.

(2) MINORS may be paid less than the minimum wage (see below) per hour provided that the number of minors employed at said lesser rate shall not exceed twenty-five percent (25%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ three (3) minors at said lesser rate. The twenty-five percent (25%) limitation on the employment of minors shall not apply during school vacations.

(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) On any workday in which an employee works a split shift two dollars and fifty cents (\$2.50) per workday shall be paid in addition to the minimum wage 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.

5. 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 employee's regular rate of pay, which shall not be less than the minimum wage herein provided.

(B) If an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage herein provided.

(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 systems; 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 scheduled reporting time.

6. LICENSES FOR HANDICAPPED WORKERS

Apprentices may be issued by the Division authorizing employment of a person whose earning capacity is impaired by physical disability or mental deficiency at less than the minimum wage herein provided. Such persons shall be granted only upon joint application of employer and employee and employee's representative if any.

A special license may be issued to a nonprofit organization such as a sheltered workshop or rehabilitation facility fixing special minimum rates to enable the employment of such persons without requiring individual permits of such employees.

All such licenses and permits shall be renewed on a yearly basis or more frequently at the discretion of the Division.

See California Labor Code, Sections 1191 and 1191.5.

7. 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) Birthdate, 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.
- (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



IN ORDER NO. 7-76, REGULATING WORKING CONDITIONS IN THE MERCHANDISE INDUSTRY



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 inclusive dates of the aggregate of all hours of work.

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

8. CASH SHORTAGE AND BREAKAGE

Subject to the provisions of Section 400 of the Labor Code, the 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. Notwithstanding the foregoing provision, where an employee has the exclusive and personal control of cash funds of the employer and is required by the employer to account, under reasonable accounting procedures, for said funds, the employer may upon prior written notice require reimbursement from such employee for cash shortages.

9. 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 and accessories of distinctive design or color.

(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 the trade or craft. Notwithstanding any other provision of this section, employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, cutting irons, rollers, clips, hair-cutting scissors, combs, oil-combs, blowers, razors, and eyelash tweezers.

(C) 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. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. MEALS AND LODGING

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

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(B) When meals or lodging are furnished by the employer as part of the employee's compensation and when pursuant to a voluntary written agreement between the employer and the employee, such meals and lodging are to be credited towards the employer's minimum wage obligation, such meals

14. 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.

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth and such room shall be maintained at not less than 68°.

(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

16. ELEVATORS

Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four floors or more, either above or below ground level.

17. LIFTING

No employee shall be required to lift, push, or carry any object which is beyond the employee's reasonable physical capability at any given time, except that it shall not be a violation of this section to require an employee to lift, push, or carry any object when such activity constitutes part of the usual duties of the job for which the employee was hired, or when it is specified in a classification or description of the job for which the employee was hired.

18. EXEMPTIONS

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 11, Meal Periods; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

19. FILING REPORTS

Every employer shall furnish to the Commission and to the Division at all reasonable times any and all reports for information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.

20. INSPECTION

The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make extracts from any and all relevant records and to question all employees for

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one sleeping may not be employed on account of the following:

Room occupied alone	\$12.00 per week
Room shared	\$7.00 per week
Apartment—two-thirds (2/3) of the ordinary rental value, and in no event more than	\$140.00 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than	\$210.00 per month
Meals	
Breakfast	\$.90
Lunch	\$1.25
Dinner	\$1.65

(C) Meals evaluated as part of the minimum wage must be basic side 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 value listed herein.

11. MEAL PERIODS

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. 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.

(B) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. REST PERIODS

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 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.

13. CHANGE ROOMS 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 nonworking hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided where 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 and sanitary.

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

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The Occupational Safety and Health Standards Board (Cal/OSHA) now regulates some matters formerly regulated by the Industrial Welfare Commission. For this reason, sections in previous Industrial Welfare Commission orders which referred to protective garments, drinking water and washing facilities, toilet rooms, first aid, floors, cleanliness and upkeep, lighting, ventilation, and exits do not appear in this Order.

Information on matters of occupational health and safety can be obtained from the Division of Industrial Safety, Department of Industrial Relations, State of California, at P.O. Box 603, San Francisco 94101, or from its district offices.

such purposes.

The investigations and data gathering shall be conducted in a reasonable manner calculated to provide the necessary surveillance of employment practices and the enforcement of the Commission's orders.

21. PENALTIES

Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California and is punishable by fine or imprisonment or both.

See excerpts from Labor Code, Sections 1196 and 1198.

22. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

23. POSTING OF ORDER

Every employer shall keep a copy of this Order posted in an area frequented by employees where it may be easily read during the work day. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this Order and make it available to every employee upon request.

Order 7-68, enacted September 26, 1967, and Order 1-74, enacted December 4, 1973, are hereby rescinded as of and at the date when this Order becomes effective, October 15, 1976.

Dated at Sacramento, California, the twenty-seventh day of July, 1976.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA
Howard Alan Carver, Chairperson
Joyce R. Valdez
Mike R. Storduy
Jackie Walsh
Yvonne P. Aguilar

James L. Quillen, Chief
Division of Labor Standards Enforcement

Excerpts from Labor Code

SECTION 18. "Person" means any person, association, organization, partnership, business trust, or corporation.

SECTION 402. If cash is received as a bond it shall be deposited in a savings account in a bank authorized to do business in this State, and may be withdrawn only upon the joint signatures of the employer and the employee or applicant.

Cash put up as a bond shall be accompanied by an agreement in writing made by the employer and employee or applicant, setting forth the conditions under which the bond is given.

SECTION 1194. The department or division may, with the consent of the employee or employees affected, commence and prosecute a civil action to recover unpaid minimum wages or unpaid overtime compensation owing to any employee under the provisions of this chapter or the orders of the commission, and, in addition to such wages and compensation, shall be entitled to recover costs of suit. The consent of any employee to the bringing of any such action shall constitute a waiver on the part of the employee of his or her cause of action under Section 1194 unless such action is dismissed without prejudice by the department or the division.

SECTION 1196. Any employer who discharges, threatens to discharge, or in any other manner discriminates against any employee because the employee has testified or is about to testify, or because the employer believes that the employee will testify in any investigation or proceedings relative to the enforcement of this chapter, is guilty of a misdemeanor.

SECTION 1197. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50) or by imprisonment for not less than 30 days, or by both, who does any of the following:

(a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission.

(b) Pays or causes to be paid an employee a wage less than the minimum fixed by an order of the commission.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

(d) Pays or causes to be paid any employee a wage less than the rate paid to an employee of the opposite sex as required by Section 1197.3 of this code.

(e) Reduces the wages of any employee in order to comply with Section 1197.3.

EMPLOYMENT OF MINORS. Persons under 18 are required to obtain work permits, and employers of minors under 18 are required to obtain permits to employ. Permits are obtained from school districts. Refer to Labor Code Sections 1285 to 1371 and 1390 to 1390 for restrictions on the employment of minors.

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NOTICE: This volume contains the 1976 amendments to the California Administrative Code, which are covered by Register 76, No. 41-A, Register 76, No. 41-B, Register 76, No. 41-C, and Register 76, No. 41-D.

(Register 76, No. 41—10-5-76)

State of California

California Administrative Register 76, No. 41-B

(October 9, 1976)

Amendments and Additions to Rules and Regulations of

Title 8. Division of Labor Standards Enforcement



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X re T.8 sec. 11215

Article 8. Mercantile Industry

(Order No. 7-76, Effective October 18, 1976)

11215. Order Governing Wages, Hours, and Working Conditions in the Mercantile Industry.

1. Applicability of Order.

This Order shall apply to all persons employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis, except that:

(A) Provisions of Sections 3 through 12 shall not apply to persons employed in administrative, executive, or professional capacities. No person shall be considered to be employed in an administrative, executive or professional capacity unless one of the following conditions prevails:

(1) The employee is engaged in work which is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment; and for which the remuneration is not less than \$720.00 per month; or

(2) The employee is licensed or certified by the State of California and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting.

(B) The provisions of this Order shall not apply to employees directly employed by the State or any county, incorporated city or town or other municipal corporation, or to outside salespersons.

(C) Provisions of this Order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer.

2. Definitions.

(A) "Commission" means the Industrial Welfare Commission of the State of California.

(B) "Division" means the Division of Labor Standards Enforcement of the State of California.

(C) "Mercantile Industry" means any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail, or for the purpose of renting goods or commodities.

(D) "Employ" means to engage, suffer, or permit to work.

(E) "Employee" means any person employed by an employer, and includes any lessee who is charged rent, or who pays rent for a chair, booth, or space and (1) who does not use his or her own funds to purchase requisite supplies, and (2) who does not maintain an appointment book separate and distinct from that of the establishment in which the space is located, and (3) who does not have a business license where applicable.



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(F) "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(G) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(H) "Minor" means, for the purpose of this Order, any person under the age of eighteen (18) years.

(I) "Outside Salesperson" means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(J) "Split shift" means a work schedule which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(K) "Teaching" means, for the purpose of Section 1 of this Order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university.

(L) "Wages" means all amounts paid for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation.

(M) "Workday" means any consecutive 24 hours beginning at the same time each calendar day.

(N) "Workweek" means any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

3. Hours and Days of Work.

(A) No employee eighteen (18) years of age or over shall be employed more than eight (8) hours in any one workday or more than forty (40) hours in any one workweek unless the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over forty (40) hours in the workweek. Employment beyond eight (8) hours in any one workday or more than sixty (6) days in any one workweek is permissible provided the employee is compensated for such overtime at not less than:

(1) One and one-half (1½) 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) workday; and

(2) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any one workday and for all hours worked in excess of eight (8) hours on the seventh (7th) workday in any one workweek.

(B) No employer shall be deemed to have violated the provisions of the above subsection (A) by instituting, pursuant to a written agreement voluntarily executed by the employer and at least two-thirds (⅔) of the affected employees before the performance of the work, a regularly scheduled week of work which includes not more than four (4) working days of not more than ten (10) hours each within five (5) consecutive workdays, provided that:

(1) The employer is not required to pay the premium wage rate prescribed in subsection (A) for the 9th and 10th hours worked during such workdays;

(2) If an employee on such a four-day schedule is required or permitted to work more than ten (10) hours in any workday, the premium wage rate provisions in subsection (A) above shall apply to such employee for those hours worked in excess of the 10th hour of that workday;

(3) Any employee on such a schedule who is required or permitted to work on more than four (4) workdays shall be compensated at the rate of not less than one and one-half (1½) times the employee's regular rate of pay for the first eight (8) hours on such additional workdays and double the employee's regular rate of pay for work in excess of eight (8) hours on those workdays.

(C) Provisions of subsections (A) and (B) above shall not apply to any employee whose earnings exceed one and one-half (1½) times the highest applicable minimum wage if more than half (½) of that employee's compensation represents commissions.

(D) No minor shall be employed more than eight (8) hours in any one day or more than six (6) days in any one week. One and one-half (1½) times the minor's regular rate of pay shall be paid for all work over forty (40) hours in any one week. No minor shall be employed before 5 o'clock in the morning or after 10 o'clock in the evening, except that during any evening preceding a non-school day a minor may work the hours authorized by this section until 12:30 o'clock in the morning of such non-school day.

(E) Minors sixteen (16) years of age or older and under the age of eighteen (18) years who are enrolled in work experience education programs approved by the State Department of Education may work after 10 p.m. but not later than 12:30 a.m. providing such employment is not detrimental to the health, education or welfare of the minors and the approval of the parent and the work experience coordinator has been obtained. However, any such minor who works any time during the hours from 10 p.m. to 12:30 a.m. shall be paid for work during that time at a rate which is not less than the minimum wage required for adults.

VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from \$100 to \$5,000 as well as to criminal penalties provided herein. Refer to California Labor Code Sections 1285 to 1311 and 1390 to 1398 for additional restrictions on the employment of minors.

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(F) An employee may be employed on seven (7) workdays in one workweek with no overtime pay required when the total hours of employment during such workweek do not exceed thirty (30) and the total hours of employment in any one workday thereof do not exceed six (6).

(G) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m., facilities shall be available for securing hot food or drink or for heating food or drink; and a suitable sheltered place shall be provided in which to consume such food or drink.

(H) Except as provided in subsections (D), (E), and (G) above, this section shall not apply where the employer is obligated to provide premium wage rates for overtime work and to regulate the number of hours of work pursuant to a written collective-bargaining agreement where such agreement covers employees who would otherwise be protected by this Order.

(I) The provisions of this section are not applicable to employees whose hours of service are regulated by the United States Department of Transportation Code of Federal Regulations, Title 49, Sections 395.1 to 395.13, Hours of Service of Drivers.

4. Minimum Wages.

(A) Every employer shall pay to each employee wages not less than two dollars and fifty cents (\$2.50) per hour for all hours worked, 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, for whom the rate of pay shall be not less than two dollars and fifteen cents (\$2.15) per hour.

(2) **MINORS** may be paid two dollars and fifteen cents (\$2.15) per hour; provided that the number of minors employed at said lesser rate shall not exceed twenty-five percent (25%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ three (3) minors at said lesser rate. The twenty-five percent (25%) limitation on the employment of minors shall not apply during school vacations.

(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) On any workday in which an employee works a split shift two dollars and fifty cents (\$2.50) per workday shall be paid in addition to the minimum wage 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.

5. 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 employee's regular rate of pay, which shall not be less than the minimum wage herein provided.

(B) If an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage herein provided.

(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 scheduled reporting time.

6. Permits and Licenses for Handicapped Workers.

A permit may be issued by the Division authorizing employment of a person whose earning capacity is impaired by physical disability or mental deficiency at less than the minimum wage herein provided. Such permits shall be granted only upon joint application of employer and employee and employee's representative if any.

A special license may be issued to a nonprofit organization such as a sheltered workshop or rehabilitation facility fixing special minimum rates to enable the employment of such persons without requiring individual permits of such employees.

All such permits and licenses shall be renewed on a yearly basis or more frequently at the discretion of the Division.

(See California Labor Code, Sections 1191 and 1191.5.)

7. 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) Birthdate, 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.

(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; and (4) the name of the employer; provided, all deductions made on written orders of the employer may be aggregated and shown as one item.

(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.

8. Cash Shortage and Breakage.

Subject to the requirements of Sections 400-410 of the California Labor Code, 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. Notwithstanding the foregoing provision, where an employee has the exclusive and personal control of cash funds of the employer and is required by the employer to account, under reasonable accounting procedures, for said funds, the employer may, upon prior written notice require reimbursement from such employee for cash shortages.

9. 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 and accessories of distinctive design or color.

(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 the trade or craft. Notwithstanding any other provision of this section, employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, rollers, clips, hair-cutting scissors, combs, air-combs, blowers, razors, and eyebrow tweezers.

(C) 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. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. Meals and Lodging.

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

"Lodging" means living accommodations which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(B) When meals or lodging are furnished by the employer as part of the employee's compensation and when pursuant to a voluntary written agreement between the employer and the employee, such meals and lodging are to be credited towards the employer's minimum wage obligations, such meals and lodging may not be evaluated in excess of the following:

Room Occupied Alone.....	\$12.00 per week
Room Shared.....	\$9.60 per week
Apartment—Two-thirds (2/3) of the ordinary rental value, and in no event more than.....	\$140.00 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than.....	\$210.00 per month
Meals—Breakfast.....	\$1.25
Lunch.....	\$1.53
Dinner.....	\$1.53

(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.

11. Meal Periods.

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. 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.

(B) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. Rest Periods.

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 (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

13. Change Rooms 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 nonworking hours. When the occupation requires a change of clothing change rooms or equivalent space shall be provided where 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 and sanitary.

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

14. 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.

15. Temperature.

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.

(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

16. Elevators.

Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four floors or more, either above or below ground level.

17. Lifting.

No employee shall be required to lift, push, or carry any object which is beyond the employee's reasonable physical capability at any given time; except that it shall not be a violation of this section to require an employee to lift, push, or carry any object when such activity constitutes part of the usual duties of the job for which the employee was hired, or when it is specified in a classification or description of the job for which the employee was hired.

18. Exemptions.

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 11, Meal Periods; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemptions shall be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

19. Filing Reports.

Every employer shall furnish to the Commission and to the Division at all reasonable times any and all reports for information which may be required to carry out the purpose of this Order, such reports and information to be verified if and when so requested.



20. Inspection.

The Commission and duly authorized representatives of the Division shall be allowed free access to any office or establishment covered by this Order to investigate and gather data regarding wages, hours, working conditions, and employment practices, and shall be permitted to inspect and make excerpts from and all relevant records and to question all employees for such purposes.

The investigations and data gathering shall be conducted in a reasonable manner calculated to provide the necessary surveillance of employment practices and the enforcement of the Commission's orders.

21. Penalties.

Failure, refusal, or neglect to comply with any of the provisions of this Order is a violation of the Labor Code of the State of California and is punishable by fine or imprisonment or both.

(See excerpts from Labor Code, Sections 1196 and 1199.)

22. Separability.

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order should be held invalid or unconstitutional or unauthorized by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

23. Posting of Order.

Every employer shall keep a copy of this Order posted in an area frequented by employees where it may be easily read during the work day. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this Order and make it available to every employee upon request.

NOTE: Authority cited: Division 2, Part 4, Chapter 1, Labor Code and Sections 1174, 1204, Labor Code. Issuing agency: Industrial Welfare Commission.

History: 1. Amendment filed 10-7-76; designated effective 10-18-76 (Register 76, No. 41). Industrial Welfare Commission. Order No. 7-76. For prior history, see Register 68, No. 36.



LEGISLATIVE INFORMATION

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STATEMENT AS TO THE BASIS

TAKE NOTICE Pursuant to the "Eight-Hour-Day Restoration and Workplace Flexibility Act," Stats. 1999, ch. 134 (commonly referred to as "AB 60"), the Legislature reaffirmed the State's commitment to the eight-hour workday standard and daily overtime, and authorized workers to adopt regularly scheduled alternative work days and weeks according to statutory and regulatory provisions. The Industrial Welfare Commission of the State of California ("IWC"), in accordance with the authority vested in it by the California Constitution, Article 14, Section 1, as well as Labor Code §§ 500-558, and 1171-1204, held public meetings and investigative hearings during which it received public comment regarding the implementation of AB 60 and, on March 1, 2000, the IWC's Interim Wage Order - 2000 became effective. The IWC subsequently has held additional public meetings and public hearings pursuant to Labor Code §517(a) to further review all of its Wage Orders for purposes of complying with AB 60. The IWC has considered all correspondence, verbal presentations, and other written materials submitted prior to the adoption of amended wage orders. The IWC submits the following statement as to the basis for the various amendments made to sections 1, 2, 3, 4, 7, 9, 11, 12, 17, and 20 of Wage Orders 1 through 15, and to the Interim Wage Order - 2000. The Statements as to the Basis for the remaining parts of the IWC's wage orders are contained in prior printings of those orders. These remaining parts have not been changed, and there is no need for an explanation because the IWC is continuing in effect regulations that have previously become a part of the standard working conditions of employees in this State.

1. Please note that not all amendments apply to all of the wage orders, and that the sections of the Interim Wage Order are slightly different from the other wage orders. Please refer to the detailed Statement below.

1. APPLICABILITY OF ORDER

Amendments to this section apply to Wage Orders 1 through 13, 15, and the Interim Wage Order. Generally, the section now provides, in part, that employees employed in administrative, executive, and professional capacities are exempt from Sections 3 through 12 of these wage orders. According to the provisions of Labor Code § 515, the criteria that must be satisfied in order to obtain an exemption from overtime pay requirements based on the fact that an individual is an administrative, executive, or professional employee, are that the particular employee must be primarily engaged in duties which meet the test for the exemption, and earn a monthly salary of no less than two times the state minimum wage for full time employment. Labor Code § 515(e) defines "primarily" as "more than one-half of an employee's work time," and § 515(c) defines "full-time employment" as 40 hours per week.

Thus the Legislature has codified the longstanding IWC regulatory requirement that an employee must spend more than 50% of his or her work time engaged in exempt activity in order to be exempt from receiving overtime pay. The IWC notes that this California "quantitative test" continues to be different from and more protective of employees than, the federal "qualitative" or "primary duty" test. Unlike the California standard, federal law allows an employee that is found to have the "primary duty" of an administrator, executive, or professional to be exempt from overtime pay even though that employee spends most of his or her work time doing nonexempt work. Under California law, one must look to the actual tasks performed by an employee in order to determine whether that employee is exempt. In addition, the statutory threshold for monthly employee remuneration has substantially

increased from the amounts set forth in prior IWC wage orders, and that remuneration must be received in the form of a salary.

In addition to the above requirements, Labor Code § 515(f) codified the IWC's existing treatment of registered nurses employed to engage in the practice of nursing. They are not to be considered exempt professional employees, and will not be considered exempt under Labor Code § 515(a) unless they individually meet the criteria established for executive or administrative employees. Similarly, Labor Code § 1186 (enacted by Senate Bill 651, Stats. 1999, ch. 190), provides that pharmacists employed to engage in the practice of pharmacy no longer qualify as exempt professional employees and must individually meet the criteria established for executive or administrative employees in order to be considered exempt under Labor Code § 515(a).

In accordance with the mandate of Labor Code § 515(a) and the expedited process for the promulgation of regulations authorized by § 517, the IWC conducted a review in order to determine the administrative, executive, and professional duties that meet the test of the exemption. The IWC held public meetings and hearings, and received verbal and written public comment in the form of testimony, correspondence, and legal argument regarding various proposals for exempt duties. The bulk of the information came from employers and employees involved in retail, restaurant, and fast food service businesses, as well as representatives of these groups. The IWC also received substantial comment from the legal community. The chief concern of all of these groups related to the distinction between executive managerial employees and nonexempt employees. Employees stated that it was common to have the title of a manager and not be paid overtime, yet perform many of the same tasks as other nonexempt employees during most of the workday. Many employers asked for specific action by the IWC, including the classification of work in settings, such as retail stores, where managers may spend a significant amount of time on the retail floor in the course of managing the operation and directing and supervising the staff. They argued that an employee should not lose his or her exempt manager status merely because he or she sometimes may have to chip in and perform nonexempt work. Attorneys representing employers argued that California should move toward the federal regulatory standards. Other attorneys representing employees reminded the IWC that use of federal regulations might conflict with California's more protective statutory requirement that, in order to be exempt, employees must be "primarily engaged" in exempt work. The IWC determined that the way to harmonize these various and competing concerns was to focus on identifying the federal regulations that could be used to describe managerial duties within the meaning of California law. The purpose of identifying and referring to such regulations is to more clearly delineate managerial duties that meet the test of the exemption and to promote consistent enforcement practices. The IWC also received testimony and correspondence from registered nurses regarding the loss of their exempt status as professional employees.

The IWC received similar testimony and correspondence from pharmacists and pharmacy representatives. Some testimony reflected the desire to reinstate the professional exemption, while other testimony based on safety and accuracy considerations did not. In addition, advocates seeking an exemption for pharmacists urged that, if the professional exemption could no longer be used, the definition for the administrative exemption should be expanded to include the coverage of pharmacists. Arguments included greater flexibility, professional degrees, and their managerial and advisory duties. Testimony submitted against the allowance of an exemption cited strenuous working conditions, potential jeopardy to the quality of patient care, and the interest of minimizing medical errors. The IWC does not have the power to repeal Labor Code § 515(f) or 1186, which explicitly require that registered nurses and pharmacists individually meet the administrative or executive

criteria in order to qualify for an exemption. Accordingly, the IWC chose not to address regulations relating to registered nurses and pharmacists.

Advanced practice nurses, which is an umbrella term that includes nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse-midwives, submitted testimony advocating the continuation of their exempt status as professional employees. They noted, among other things, that they are not employed to engage in the practice of nursing, and they have advanced degrees in specialized areas, and/or special certification by the State of California. They further noted their 24-hour responsibility for patients, independent management duties, and the need for continuity of patient care as justification for status as exempt professionals. Health care organizations and health care employees both submitted comments and correspondence urging an exemption for advanced practice nurses. On the other hand, labor organizations representing advanced practice nurses testified that they should be treated no differently than other nurses. The IWC also received information regarding pending legislation (Senate Bill 88) that would provide exempt professional status to three types of advanced practice nurses. This legislation was enacted and signed by Governor Davis in September 2000. Accordingly, Sections 3-12 the IWC Wage Orders 1-13 and 15, and Sections 4 and 5 of the Interim Wage Order do not apply to certified nurse midwives, certified nurse practitioners, and certified nurse anesthetists, within the meaning of Articles 2.5, 7, and 8, of Business and Professions Code, Division 2, Chapter 6, who otherwise satisfy the requirements for the professional, executive or administrative exemption. (See Stats. 2000, ch. 492, amending Labor Code § 515.) After digesting all the information received in its review, the IWC chose to adopt regulations for Wage Orders 1 - 13, and 15 that substantially conform to current guidelines in the enforcement of IWC orders, whereby certain Fair Labor Standards Act regulations (Title 29 C.F.R. Part 541) have been used, or where they have been adapted to eliminate provisions that are inconsistent with the more protective provisions of California law. The IWC intends the regulations in these wage orders to provide clarity regarding the federal regulations that can be used describe the duties that meet the test of the exemption under California law, as well as to promote uniformity of enforcement. The IWC deems only those federal regulations specifically cited in its wage orders, and in effect at the time of promulgation of these wage orders, to apply in defining exempt duties under California law.

Executive Exemption. The IWC derived the duties which meet the test for the executive exemption from language in the federal regulation 29 C.F.R. § 541.1(a)-(d), with one important exception. The reference in 29 C.F.R. § 541.1(a) to the phrase "primary duty" is omitted because, as discussed above, that phrase refers to a federal test that provides less protection to employees. Instead section A(1) generally refers to managerial duties and responsibilities, while section A(5) sets forth California's "primarily engaged" requirement. Section A(5) also refers to the federal regulations, 29 C.F.R. §§ 541.102, 541.104-541.111, 541.115-541.116, that may be used to describe exempt duties under California law. Included in these regulations are two which describe work and occasional tasks that are "directly and closely related" to exempt work. (29 C.F.R. §§ 541.108 and 541.110.) For example, time spent by a manager using a computer to prepare a management report should be classified as exempt time where use of the computer is a means for carrying out the exempt task. The IWC recognizes that 29 C.F.R. § 541.110 also refers to "occasional tasks" that are not "directly and closely related." The IWC does not intend for such tasks to be included in the calculation of exempt work. In addition, the last sentence of section A(5) comes from the California Supreme Court's decision in *Ramirez v. Yosemite Water Co.* (1999) 20 Cal.4th 785, 801-802. Although that case involved the exemption for outside salespersons, the determination of whether an employee is an outside salesperson is also quantitative: the employee must regularly spend more than half of his or her working time engaged in sales activities outside the workplace. In remanding the case back to the Court of Appeal, the California Supreme Court offered the following advice:

"Having recognized California's distinctive quantitative approach to determining which employees are outside salespersons, we must then address an issue implicitly raised by the parties that caused some confusion in the trial court and the Court of Appeal: Is the number of hours worked in sales-related activities to be determined by the number of hours that the employer, according to its job description or its estimate, claims the employee should be working in sales, or should it be determined by the actual average hours the employee spent on sales activity? The logic inherent in the IWC's quantitative definition of outside salesperson dictates that neither alternative would be wholly satisfactory. On the one hand, if hours worked on sales were determined through an employer's job description, then the employer could make an employee exempt from overtime laws solely by fashioning an idealized job description that had little basis in reality. On the other hand, an employee who is supposed to be engaged in sales activities during most of his working hours and falls below the 50 percent mark due to his own substandard performance should not thereby be able to evade a valid exemption. A trial court, in determining whether the employee is an outside salesperson, must steer clear of these two pitfalls by inquiring into the realistic requirements of the job. In so doing, the court should consider, first and foremost, how the employee actually spends his or her time. But the trial court should also consider whether the employee's practice diverges from the employer's realistic expectations, whether there was any concrete expression of employer displeasure over an employee's substandard performance, and whether these expressions were themselves realistic given the actual overall requirements of the job."

The IWC, in summarizing the above language in its wage orders, intends to provide some guidance in the enforcement of its regulations. The IWC does not intend to modify or limit the California Supreme Court's statements or its decision.

Administrative Exemption. The IWC similarly derived the duties that meet the test for the administrative exemption from language in the federal regulation 29 C.F.R. § 541.2(a)-(c), with the exception of the "primary duty" phrase. Section B(1)(b), which restates 29 C.F.R. § 541.2(a)(2), refers to school administration, but is not intended to establish a different test with regard to school administration, or to affect the professional exemption as it relates to teachers, or to otherwise change existing law. Section B(4) sets forth the California "primarily engaged" requirement. That section also sets forth the federal regulations, 29 C.F.R. §§ 541.201-541.205, 541.207-541.208, 541.210, and 541.215, that may be used to describe exempt duties under State law. These regulations include types of administrative employees, categories of administrative work, and a description of what is meant by the phrase "discretion and independent judgment." The last sentence of section B(4) again summarizes the California Supreme Court's decision in *Ramirez v. Yosemite Water Co.* (1999) 20 Cal.4th at 801-802, quoted above. In summarizing that language, the IWC intends to provide some guidance in the enforcement of its regulations, and does not intend to modify or limit the California Supreme Court's statements or its decision.

Professional Exemption. The IWC developed the duties that meet the test for the professional exemption from the list of recognized professions contained in prior wage orders as well as from language in the federal regulations 29 C.F.R. § 541.3(a)(1), (2), and (4), and 541.3(b). The recognized professions are law, medicine, dentistry, optometry, architecture, engineering, accounting, and teaching. Although registered nurses and pharmacists were previously included in the list of recognized professionals, as discussed above, they can no longer be considered to be exempt as professionals. (Labor Code §§ 515(f) and 1186.) Teaching continues to require a certificate from the Commission for Teacher Preparation and Licensing, or teaching in an accredited college or university, to be eligible for the professional exemption.

Employees subject to Wage Orders 1, 4, 5, 9, and 10 have had the "learned or artistic" aspect of the professional exemption available to them since 1993. The IWC found no reason to limit this aspect of the exemption to those five wage orders. The IWC therefore decided to include the "learned and artistic" provisions uniformly throughout all the wage orders. Section C(4) sets forth the federal regulations, 29 C.F.R. §§ 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.310, that may be used to describe exempt duties under State law.

The new regulations in this section of the IWC's wage orders regarding the administrative, executive, and professional exemption are consistent with existing law and enforcement practices.

Recent legislative enactments provide exemptions from some or all of the provisions of the IWC's wage orders. In addition to an exemption for certain advanced practice nurses, SB 88, Stats. 2000, ch. 492, creates an exemption for certain employees in computer software fields. Sections 3-12 of IWC Wage Orders 1-13 and 15, and Sections 4 and 5 of the Interim Wage Order will not apply to employees in computer software fields who 1) earn forty-one dollars (\$41.00) or more per hour, 2) are primarily engaged in work that is intellectual or creative and requires the exercise of discretion and independent judgment, and 3) are highly skilled and proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering within the meaning of added Labor Code § 515.5. In addition, effective January 1, 2001, the IWC's orders will not apply to any individual participating in a National Service Program, such as AmeriCorps, AmeriCorps NCCC, and Senior Corps, that carry out services with the assistance of grants from the Corporation for National and Community Service within the meaning of Title 42, United States Code, Section 12571. (See Stats. 2000, ch. 365, amending Labor Code § 1171.)

This section further provides that outside salespersons are exempt from the provisions of the IWC's wage orders. Pursuant to the requirements of Labor Code § 517(d), the IWC conducted a review of the wages, hours, and working conditions of outside salespersons and received testimony and correspondence on these matters. Some witnesses urged the IWC adopt a more expansive definition of an outside salesperson. Others asked the IWC to define more clearly those activities that are not "sales related." After considering proposals by both employers and employees, the IWC determined that it would not change its longstanding definition of "outside salesperson." (See *Ramirez v. Yosemite Water Co.*, 20 Cal.4th 785.) However, the IWC notes that this exception is to be construed narrowly, as a determination that an employee is an outside salesperson deprives that employee of the protections of the wage orders and many other provisions of the Labor Code.

The provisions of Wage Order 10 now apply to all employees employed by an employer operating a business at a horse racing facility, including stable employees. Stable employees include, but are not limited to grooms, hotwalkers, exercise workers, and any other employees engaged in the raising, feeding, or management of racehorses, employed by a trainer at a racetrack or other non farm training facility. Employees in the commercial fishing industry are now covered by wage orders 10 and 14.

The IWC received no compelling evidence, and concluded there was no reason at this time, to warrant making any other changes in the provisions of this section.

2. DEFINITIONS

Amendments to this section apply to Wage Orders 1 through 13, and 15. The IWC received testimony from employee and employer groups requesting clarification regarding what a workday and a workweek included. There was also confusion regarding the definition of an alternative workweek.

The IWC adopted the following language into the Interim Wage Order - 2000: 1) "Workday" and "day" mean any consecutive 24-hour period beginning at the same time each calendar day; 2) "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods; 3) An "Alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a 24-hour period. This language will now replace the language in Wage Orders 1 through 13 and 15. The definitions provided in this section for "workday" and "day," "workweek" and "week," and "alternative workweek schedule" are identical to the definitions provided in Labor Code §500.

The IWC determined that an additional definition for a work "shift" should be added to its wage orders. "Shift " means designated hours of work by an employee, with a designated beginning and quitting time.

As discussed below in Section 3, Hours and Days of Work, the IWC also determined that the health care industry should retain the option to adopt alternative workweek schedules with work days of more than 10 but not exceeding 12 hours. The IWC has therefore included definitions in Wage Orders 4 and 5 for the terms "health care industry," "employees in the health care industry" and "health care emergency." These three terms are discussed more fully in Section 3.

The IWC received no compelling evidence, and concluded there was no authority at this time, to warrant making any other change in the provisions of this section other than those required by AB 60.

3. HOURS AND DAYS OF WORK

DAILY OVERTIME -GENERAL PROVISIONS 2

This portion of Section 3 states the daily overtime provisions mandated by AB 60 and applies to Wage Orders 1 through 13, unless otherwise indicated. This section clarifies that premium pay for the "seventh day of work in any one workweek" refers to the seventh consecutive day of work in a workweek. The IWC received testimony regarding the general provisions of overtime as mandated by AB 60. Both employers and employees testified that they were confused regarding the meaning of the "seventh day of work" in the calculation of premium pay. The time-and-a-half provision in Labor Code §510(a) refers to "seventh day of a workweek," but the double time provision refers to "seventh day of a workweek." This slight difference creates the confusion as to whether AB 60 requires double time pay for any work performed in excess of eight hours on the seventh day of the workweek, even if the employee has not worked on all seven days of that workweek. The IWC found that the purpose of the seventh day premium is to provide extra compensation to workers who are denied the opportunity to have a day off during the workweek. Following a literal interpretation of the double time provision would illogically reward someone who may only be scheduled to work one day, and that day fortuitously happens to be the seventh day of the employer's workweek. To clarify this matter, the IWC inserted the term "consecutive" to specify that an employee must work on all seven days in a designated workweek to receive overtime compensation for the seventh day of work in a workweek.

In determining overtime compensation for nonexempt full-time salaried employees, this section also restates Labor Code § 515 (d), which clarifies that the rate of 1/40th of the employee's weekly salary should be used in the computation.

ALTERNATIVE WORKWEEKS SCHEDULES 3

This portion of section 3 provides the general guidelines for Wage Orders 1 through 13 for the adoption of employer proposed alternative workweek schedules provided by Labor Code § 511. Section 511 has specific provisions for adopting alternative workweek schedules and sets the standards for determining the overtime compensation for employees who adopt such schedules. Generally, Wage Orders 1 through 13 provide that an employer does not violate the daily overtime provisions by properly instituting an alternative workweek schedule of up to ten (10) hours per day within a forty (40) hour workweek. Instead, once employees have properly adopted an alternative workweek schedule, an employer must pay one and one-half (1½) times the employees' regular rate of pay for all work performed in any workday beyond that alternative workweek of up to twelve (12) hours a day or beyond forty (40) hours per week, and double the employees' regular rate of pay for all work performed in excess of twelve (12) hours per day and any work in excess of eight (8) hours on those days worked beyond the adopted alternative workweek schedule. Wage Orders 4 and 5 also provide for alternative workweek schedules of up to twelve (12) hours in a workday within a forty (40) hour workweek for employees in the health care industry. In addition, the IWC has provided for special exemptions from daily overtime for organized camp counselors and employees in the ski and commercial fishing industries. These matters are discussed in more detail below.

2 See Section 4 of the Interim Wage Order

3 See Sections 5-8 of the Interim Wage Order.

The IWC notes that Wage Order 1-89, which was reinstated by AB 60, provided for an alternative workweek "of not more than ten (10) hours per day within a workweek of not less than forty (40) hours," as opposed to the language adopted by the IWC that provides for an alternative workweek of not more than ten (10) hours per day within a "within a forty (40) hour workweek," as specified in AB 60. To resolve this conflict, and in the interest of uniformity and greater flexibility in crafting alternative workweek schedules, the IWC adopted the latter language to insert into Wage Orders 1 through 13. Thus, Wage Order 1 now contains language identical to the other wage orders.

The IWC further clarified that hours considered in the calculation of daily overtime pay are not counted in the determination of 40-hour workweek overtime compensation. Basically, there is no "pyramiding" of separate forms of overtime pay for the same hours worked. Once an hour worked is paid at the applicable daily overtime rate, that same hour cannot be used in the computation of forty hours for the purposes of weekly overtime pay.

After receiving testimony and correspondence from employees who sought predictability in work schedules, and employers who sought flexibility in work schedules, the IWC concluded that an employer proposal for an alternative workweek schedule must designate the number of days in the workweek and number of hours in the work shift. The employer does not need to specify the actual days to be worked within that workweek prior to the alternative workweek election. The phrase "regularly scheduled," as set forth in Labor Code § 511(a), means that the employer must schedule the actual work days and the starting and ending time of the shift in advance, providing the employees with reasonable notice of any changes, wherein said changes, if occasional, shall not result in a loss of the overtime exemption. However, in no event does Labor Code § 511(a) authorize an employer to create a system of "on-call" employment in which the days and hours of work are subject to continual changes, depriving employees of a predictable work schedule. Moreover, in Wage Orders 1, 2, 3, 6, 7, 8, 11, 12, and 13, the IWC retained the pre-AB-60 requirement that alternative workweek schedules provide for two (2) consecutive days off for employees.

The IWC received several inquiries concerning flexibility for employees switching alternative workweek options after an election is held. The IWC concluded that upon the approval of the employer, an employee may move from one menu option to another. Additionally, the "menu of options" provision provided in Labor Code § 511(a) provides that an employer may propose "a menu of work schedule options, from which each employee in the unit would be entitled to choose. "Such choice may be subject to reasonable nondiscriminatory conditions, such as a senioritybased system or a system based on random selection for selection of limited alternative schedules, provided that any limitation imposed upon an employee's ability to choose an alternative schedule is approved as part of the 2/3 vote of the work unit. If the employer's business needs preclude allowing its employees to freely choose among work schedule options, the employer should not propose a menu of work schedule options. Instead, the employer may be able to propose more than one alternative workweek schedule by dividing the workforce into separate work units, and proposing a different alternative workweek schedule for each unit. This method would inform each employee of exactly which schedule would be adopted by the election. In order to provide flexibility in accommodating the personal needs of employees, the IWC further clarified that employers may grant employee requests to switch same-length shifts on an occasional basis.

Based on some of the testimony the IWC received regarding alternative workweek schedules, a question arose as to whether an employer who adopted an alternative workweek arrangement of no greater than ten (10) hours per day could lawfully require employees to work beyond those scheduled hours on a recurring basis with the payment of appropriate overtime compensation. Labor Code §511 (a) provides that employees may elect to establish a "regularly scheduled alternative workweek" that authorizes work by the affected employees for no longer than 10 hours within a 40-hour workweek. However, Labor Code § 511(b) provides that an employee working beyond the hours established by the alternative workweek agreement shall be entitled to overtime compensation. The IWC believes that, reading these two provisions of the Labor Code together, an employer who requires an employee to work beyond the number of hours established by the alternative workweek agreement, even if such overtime hours are worked on a recurring basis, does not violate the law if the appropriate overtime compensation is paid.

However, the IWC added a section to its wage orders out of its continued concern that employers could establish alternative workweek agreements and then consistently deviate from the regular schedule approved by the employees without paying overtime compensation for work performed beyond eight hours in a day. Such conduct effectively deprives employees of the right established by Labor Code §511(a) to a "regularly scheduled" alternative workweek and could lead to abuses. To prevent any such abuses, the IWC wage orders now provide that, if an employer sends workers home early on a work day that they are scheduled to work beyond eight hours without the payment of overtime pursuant to an alternative workweek agreement, the employer is required to pay overtime compensation in accordance with the provisions of the Labor Code §511(a) for all hours worked in excess of eight (8) hours on that workday.

The IWC has received questions regarding how part-time employees working in employee units that have adopted alternative workweeks should be paid overtime. It is the IWC's continued intention that a part-time employee be paid overtime in the same manner as other employees in the work unit. Thus if the employee work unit has adopted an alternative work week schedule of four ten-hour days, a part-time 11 employee working two ten-hour days would not be paid overtime after eight hours; rather, overtime would be paid after working the ten-hour daily shift.

This section echoes Labor Code §511(c), which prohibits employers from reducing an employee's regular rate of hourly pay as the result of the adoption, repeal, or nullification of an alternative

workweek schedule. Labor Code §511(c) only applies to reductions in the regular rate of pay that are instituted after January 1, 2000, the effective date of AB 60. This section also reflects the requirements of Labor Code § 511(d) regarding the required reasonable accommodation of employees who are unable to work alternative workweek schedules that are established through election, the permissible accommodation of employees hired after the election who are unable to work the alternative workweek schedules established through election, and the required exploration of "any available reasonable alternative means" of accommodation of the religious belief of an affected employee that conflicts with the alternative workweek schedule established through election. In addition, this section states the requirements for the employer reporting of alternative workweek election results mandated by Labor Code §511(e), as well as the provisions in Labor Code §554 concerning the accumulation of days of rest. The requirement of one day's rest in seven is mandated by Labor Code §§ 551 and 552.

Notwithstanding the general provisions in its wage orders regarding alternative workweeks, Wage Orders 4 and 5 allow employees in the "health care industry" to adopt employer proposed alternative workweeks of up to twelve (12) hours in a workday within a forty (40) hour workweek. Labor Code § 511(g) and the Interim Wage Order 2000 previously authorized such alternative workweeks if they were adopted according to the election and other requirements contained in those measures. In addition, the Interim Wage Order provides that such alternative workweeks are valid only until the effective date of wage orders promulgated pursuant Labor Code §517. In the meantime, the IWC conducted a review of the health care industry, as required by Labor Code § 517(b), to determine inter alia whether the allowance of twelve hour workdays should continue to be an option for employees, and what employees should be considered a part of the health care industry.

The IWC received testimony and correspondence from numerous employees, employers, and representatives of the health care industry regarding alternative workweeks. Citing personal preference, commuter traffic, mental and physical wellbeing, family care, and continuity of patient care issues, the vast majority of testimony from health care employees urged the retention of the 12-hour workday. Advocates of 12-hour workdays also noted that 8-hour shifts were impractical for hospital and home health care services, and that their industry should be afforded greater flexibility.

The IWC received additional testimony and correspondence from employees who work eight (8) hour shifts and prefer doing so. These employees also emphasized the need for flexibility in work scheduling, so that eight (8) shifts would not be eliminated, and so that employees would not be forced to work longer or shorter hours than desired.

The IWC also received testimony concerning patient safety considerations in support of the elimination of 12-hour workdays. These witnesses advised that the last four hours of 12-hour shifts can be exhausting and that exhaustion can result in a greater inclination toward making mistakes.

Based on all the information it received, the IWC determined that the health care industry should retain the option to adopt alternative workweek schedules with work days of more than 10 but not exceeding 12 hours. The IWC further determined that it will retain through its wage orders the provisions of former Labor Code § 1182.9, that employers engaged in the operation of a licensed hospital, or in providing personnel for the operation of a licensed hospital, may propose regularly scheduled alternative workweeks that include no more than three (3) twelve (12)-hour workdays within a 40-hour workweek, and that, if such an alternative workweek is adopted, an employer must make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the schedule and is unable to work the 12-hour shift. However, an employer is not being required to offer a different work assignment to an employee if such a work assignment is

not available or if the employee was hired after the adoption of the twelve (12) hour, three (3) day alternative workweek schedule.

The main question remaining was how the health care industry would be defined. Following several public meetings and hearings, employer and employee representatives decided to work together and attempt to resolve several issues regarding the health care industry and to draft proposed language for consideration by the IWC. Prior to the public hearing on June 30, 2000, these two groups were able to negotiate compromises agreeable to both sides and to propose such language to the IWC. The proposed language, which the IWC adopted, defines the "health care industry" as hospitals, skilled nursing facilities, intermediate care and residential care facilities, convalescent care institutions, home health agencies, clinics operating twenty-four (24) hours per day, and clinics performing surgery, urgent care, radiology, anesthesiology, pathology, neurology, or dialysis. The IWC received testimony and correspondence that in intermediate care and residential care facilities other regulatory agencies use the term "resident" to describe persons receiving medical care in those facilities. The IWC concluded that the term "patient" includes "residents" of those facilities as defined by Health & Safety Code §§ 1250(c), (d), (e), (g), and (h), and 1569.2(k).

The proposal also included language defining the employees that are a part of the health care industry. The IWC adopted this proposal with one amendment regarding animal health care. Employees in the health care industry are now defined as those employees who provide patient care, or work in a clinical or medical department, including pharmacists dispensing prescriptions in any practice setting, or work primarily or regularly as members of a patient care delivery team, or are licensed veterinarians, registered veterinary technicians, and unregistered animal health assistants and technicians providing patient care in animal hospital settings or facilities equivalent to those described above for people.

The regulations make clear that the phrase "employees in the healthcare industry" does not include those persons primarily engaged in providing meals, performing maintenance or cleaning services, doing business office or other clerical work, or undertakings involving any combination of such duties. Therefore, any alternative workweek schedule that is adopted by employees primarily engaged in these duties, and that provides for workdays in excess of 10 hours, is now null and void.

The IWC intends the definition of employees in the health care industry to encompass pharmacists who dispense prescriptions in all practice settings, including community retail pharmacists. The IWC also intends to include within the definition of the health care industry all employees who primarily or regularly provide hospice care as members of a patient care delivery team.

The IWC further notes that the requirement that an employee work primarily or regularly as a member of a patient care delivery team means that the employee must spend more than one-half of his or her work time engaged in such work. In Wage Orders 4-89 and 5-89, as amended in 1993, the IWC had a different definition of the term "primarily" for employees in the health care industry. According to those orders, "the term 'primarily' as used in section 1, Applicability, means (1) more than one-half the employee's work time as a rule of thumb or, (2) if the employee does not spend more than 50 percent of the employee's time performing exempt duties, where other pertinent factors support the conclusion that management, managerial, and/or administrative duties represent the employee's primary duty." This definition no longer exists. Again, the IWC emphasized that, consistent with Labor Code §515 (e), "primarily" means one-half the employee's work time.

With regard to animal health care, the IWC received testimony from veterinarians and the California Veterinary Medical Association which represents approximately 4,500 licensed veterinarians and

registered veterinary technicians who own and/or work in some 2,200 hospitals, clinics and independent practices throughout the State. The Association advised the IWC that approximately 50% of the animal care facilities are 24-hour hospitals that provide medical, dental, and surgical care, as well as emergency and critical care for patients. The IWC determined that licensed veterinarians, registered veterinary technicians and unregistered assistants had the same work-related issues and personal concerns regarding alternative workweek schedules as employees providing health care services to humans, and that such employees, who provide patient care within the meaning of Business and Professions Code §§ 4825-4857 in facilities similar to those described above for the treatment of humans, should be included in the health care industry.

The negotiated proposed language that the IWC adopted also includes a few protections for employees working 12-hour shifts. Employees cannot be required to work more than 12 hours in a 24-hour period unless there is a "health care emergency," as that phrase is defined in the regulation, and even though all reasonable steps have been taken to provide otherwise, the continued overtime is 14 necessary to provide the required staffing. However, an employee may be required to work up to thirteen (13) hours within a 24-hour period if the employee that is supposed to relieve the first employee does not show up for his or her shift on time and does not notify the employer two hours in advance that he or she will not appear for duty as scheduled. Also, no employee can be required to work more than sixteen (16) hours in a 24-hour period unless by a voluntary mutual agreement of the employee and employer, and no employee can work more than 24 consecutive hours until that employee receives 8 consecutive off-duty hours. Finally, the adopted language provides that, if, during the last quarter of 1999, an employer implemented a reduced pay rate for employees choosing to work 12 hour shifts, and desires to reimplement a flexible work arrangement that includes twelve (12) hour shifts at straight time for the same work unit, the employer must pay a base rate to each affected employee in the work unit that is no less than that employee's base rate in 1999 immediately prior to the date of the rate reduction.

The IWC retained the provisions in Wage Order 5 relating to the following method of calculating overtime compensation. An employer engaged in the operation of a hospital or other institution primarily engaged in the care of the sick, aged, or mentally ill or defective in residence may, pursuant to an agreement or understanding arrived at before the performance of work, establish a work period of fourteen (14) consecutive days in lieu of a workweek of seven (7) consecutive days if, for any work in excess of eighty (80) hours in such fourteen (14) day period, the employee receives compensation at a rate of not less than one and one-half (1½) times the employee's regular rate of pay.

ELECTION PROCEDURES

Labor Code 517(a) directed the IWC to adopt regulations before July 1, 2000 regarding "the conduct of employee workweek elections, procedures for employees to petition for and obtain elections to repeal alternative workweek schedules, procedures for implementation of those schedules, conditions under which an adopted alternative workweek schedule can be repealed by the employer, employee disclosures, designations of work, and the processing of workweek election petitions." In accordance with this mandate, this section also lays out the election procedures for the adoption and repeal of alternative workweek schedules. Labor Code § 511(e) requires employers to report the results of any election to the Division of Labor Statistics and Research.

Based on testimony it received during public meetings and hearings, as well as its consideration of proposals of election procedures that were submitted, the IWC determined its wage orders should have more extensive procedures and safeguards than included in the Interim Wage Order - 2000. The language adopted reiterates the two-thirds (b) vote before the performance of work and secret ballot

election requirements found in Labor Code § 511(a), and also provides a definition for "affected employees in the work unit." This definition is derived from preexisting language found in Wage Orders 4, 5, 9, and 10. However, the adopted language also sets up employee disclosure guidelines and mandates that an employer must provide disclosure in a non-English language if at least five (5) percent of the affected employees primarily speak that non-English language. Written disclosure and at least one meeting must be held at least fourteen (14) days prior to the secret ballot vote. This 14-day notice provision was previously applicable only to the health care industry. Failure to abide by these employee disclosure requirements will render the election null and void. In addition, Wage Order election procedures now require employers to hold elections at the work site of the affected employees, specify that employers must bear any election costs, and authorizes the Labor Commissioner to investigate employee complaints. Following an investigation, an employer may be required to select a neutral third party to conduct the election. In order to provide additional protection for employees, the IWC added language that prohibits employers from intimidating or coercing employees to vote either in support of or in opposition to a proposed alternative workweek. Also, employees cannot be discharged or discriminated against for expressing opinions about elections or for voting to adopt or repeal an alternative workweek agreement.

The procedures further provide for the revocation of an alternative workweek schedule. The one-third (1/3) petition threshold and two-thirds (b) vote required to reverse an alternative workweek agreement reflects language adopted in the Interim Wage Order - 2000. While Wage Orders 1, 9, 10 and non-health care industry employees in Wage Orders 4 and 5 already followed these requirements, Wage Orders 2, 3, 6, 7, 8, 11, 12, 13, and Wage Orders 4 and 5 in the coverage of health care industry employees instead required a majority of employees to petition for an election. In the interest of establishing a universal provision applicable to all wage orders, the IWC decided to defer to the one-third (1/3) standard.

Following the repeal of an alternative workweek schedule, the employer faces a sixty (60) day compliance deadline, but the Division of Labor Standards Enforcement (DLSE) may grant an extension upon showing of undue hardship. This provision merely restates preexisting language from Wage Orders 1 through 13.

The requirements that an election to repeal an alternative workweek agreement must be held within thirty (30) days of an employee petition and on the affected employees' work site fall under the IWC's Labor Code § 517 authority. The prerequisite twelve (12) month lapse after the adoption of an alternative workweek schedule before an election to repeal can be held reflects preexisting language found in Wage Orders 1 through 13.

The adopted language clarifies that the report on election results is a public document, and further specifies the content required for each report. The language also provides for a thirty (30) day grace period before employees are required to work any new alternative workweek schedules adopted through election.

OTHER PROVISIONS ⁴

⁴ See Sections 6-8 of the Interim Wage Order.

Minors: This section reflects the current penalties for violation of child labor laws. Violators are now subject to civil penalties from \$500 to \$10,000 as well as to criminal penalties. These increased

penalties, initially set forth in the Interim Wage Order - 2000, will now be reflected in all the IWC's wage orders.

Make up Time: This section implements the make up time provisions mandated by Labor Code §513. The statute provides that an employer must approve the written request of an employee on each occasion the employee would like to perform make up time in the same workweek. In the interest of employer and employee convenience, the IWC decided to allow any employee who knows in advance that he or she will be requesting make up over a succession of weeks to request make up work time for up to four weeks in advance.

Collective Bargaining Agreements: This section updates the criteria for the collective bargaining agreement exemption in accordance with Labor Code § 514. Except as provided in subsections referring to overtime for minors 16 and 17 years of age, the availability of a place to eat for workers on night shift, and limits on work over 72 hours, employees working under valid collective bargaining agreements are exempt from the AB 60 overtime provisions if the agreement provides for the wages, hours of work, and working conditions of the employees, premium wage rates are designated for all overtime hours worked, and their regular hourly rate of pay is at least thirty (30) percent more than the state minimum wage.

This provision replaces the previous requirement that employees under collective bargaining agreements must earn at least one-dollar (\$1) an hour more than the state minimum wage to qualify for the exemption. Premium wage rates are any rates higher than the regular hourly wage rate. The IWC also adopted language that requires the application of "one day's rest in seven" for employees working under a collective bargaining agreement unless the agreement explicitly states otherwise.

The California Labor Federation submitted testimony that Labor Code §514 was intended to permit the parties to a collective bargaining agreement to define what constitutes "overtime hours" and to determine the rate of premium pay to be paid for all overtime hours worked. The Commission agrees that § 514 permits the parties to a collective bargaining agreement to establish alternative workweek agreements through the collective bargaining process provided certain conditions are met. Thus, so long as the collective bargaining agreement establishes regular and overtime hours within the work week, establishes premium pay for all such hours worked, and the regular rate of pay is more than (30) percent above the minimum wage, then the exemption established by Labor Code § 514 is applicable.

Personal Attendants: Wage Order 5 previously included an exemption from Section 3, Hours and Days of Work, for personal attendants, adult employees or minors who are permitted to work as adults who have direct responsibility for children under eighteen (18) years of age receiving twenty-four (24) hour care, organized camp counselors, and resident managers of homes for the aged having less than eight (8) beds as long as such employees were not employed more than 54 hours nor more than six (6) days in any workweek, except under certain emergency conditions. The IWC learned, however, that, except for organized camp counselors, the provisions of this exemption violate the requirements of the federal Fair Labor Standards Act. In order to comply with federal law, the IWC reduced the weekly overtime provisions to 40 hours for personal attendants, adult employees or minors who are permitted to work as adults who have direct responsibility for children under eighteen (18) years of age receiving twenty-four (24) hour care, and resident managers of homes for the aged having less than eight (8) beds. It is the IWC's intention is that these employees may work more than eight (8) hours in a day as long as their weekly hours do not exceed 40 and, consistent with prior enforcement practices, any such employees who work more than 40 hours in a workweek must receive overtime pay for any day during that workweek in which they worked more than eight (8)

hours. The IWC notes, however, that personal attendants who are also "employees in the health care industry," who also work in facilities within the meaning of the term "health care industry," may elect to work pursuant to an alternative workweek schedule adopted pursuant to the provisions applicable to such employees.

Ski Industry Employees (See Wage Order 10): Pursuant to Labor Code § 517(b), The IWC conducted a review of the wages, hours, and working conditions of employees working at establishments that offer Alpine and Nordic skiing and related recreational activities to the public. The IWC received testimony and written submissions from employees who overwhelmingly disapproved the special exemption from overtime set forth in former Labor Code § 1182.2 whereby employees could be required to work up to 56 hours in a workweek without the payment of overtime. Employees stated that their income is just above the minimum wage, that they have often worked ten (10) to fourteen (14) hours at straight time without breaks or meal periods, and at their income it is difficult to pay rent or otherwise make ends meet. They asked that they receive the same protections as other employees under AB 60. In addition, labor representatives testified that ski facilities in neighboring Nevada are required to pay overtime to employees after eight (8) hours without any apparent financial hardship.

Employers testified that they are a very small industry of 38 facilities, with a low profit margin that is very dependent upon the vagaries of the weather and a primarily seasonal workforce. Employers further stated that, unlike other industries that are dependent on the weather, ski facilities must be cleared for safe public use every day they are open. They also noted that, under the federal Fair Labor Standards Act, the ski industry is exempt from having to pay weekly overtime after forty (40) hours, and that, if they are required to comply with all the requirements of AB 60, their profit margin will be eliminated. As a compromise, they requested that the IWC issue regulations requiring overtime to be paid after forty-eight (48) hours in a workweek year-round.

The IWC concluded that it would be inconsistent with the health, safety, and welfare of employees to continue the former statutory exemption from daily overtime in a regulation. Instead, Wage Order 10 will now provide that an employer engaged in the operation of a ski establishment as defined in that order will not be in violation of overtime provisions by instituting a regularly scheduled alternative workweek of 48 hours or less during any month of the year when Alpine or Nordic skiing activities are actually being conducted. However, overtime must be paid at the rate of 1 ½ times the regular rate of pay for all hours worked in excess of ten (10) hours in a day or 48 hours in a workweek.

Commercial Fishing Employees (See Wage Orders 10 and 14): The IWC received testimony from persons employed in the commercial passenger fishing industry that, due to the uncertain length of the work day as well as long established customs in the industry, which is highly dependent on the availability of fish, it would be inappropriate to impose a requirement that employees receive overtime pay. In addition, commercial passenger fishing boats are subject to minimum manning requirements regulated by the United States Coast Guard, Title 46, Code of Federal Regulation, Part 15, which limit the number of hours that crew members may work while at sea. There is also an exemption from overtime requirements for commercial fishing vessels under the Fair Labor Standards Act. Therefore, the IWC concluded that it would continue the exemption from Section 3, Hours and Days of Work, formerly set forth in the Labor Code § 1182.3, for employees of commercial passenger fishing boats when they perform duties as licensed crew members. Such an exemption would not apply to other employees in the industry, such as clerical or maintenance personnel, who do not perform duties as licensed crew members on fishing boats.

The IWC received no compelling evidence to warrant making any other changes in the provisions of Section 3, Hours and Days of Work.

4. MINIMUM WAGES

While there are no changes to present minimum wage levels, the IWC currently is conducting its minimum wage review. A new minimum wage may become effective January 1, 2001. If there is a new minimum wage, it will, in turn, affect the level of meal and lodging credits.

Commercial Fishing: Under former Labor Code § 1182.3 employees in this industry were exempt from the minimum wage. The IWC conducted a review of this industry pursuant to Labor Code § 517 (b), and received testimony from representatives of the commercial passenger fishing industry that the custom in the industry was to pay crew members on the basis of "one-half day," "three-quarter day," "full day," or "overnight" trips. These employers wished to continue this custom consistent with their present obligation to pay the minimum wage for all hours worked. The provisions of Section 4 (E) would allow employers to record pay of crew members in accordance with a formula based on the length of the trip. However, if the trip exceeds the defined hours of the formula, the additional hours would have to be recorded as additional hours worked and compensated accordingly. In practice, this alternative record keeping system may result in employees being paid more than the actual hours worked, but can never result in them being paid less than the actual hours worked. It is, therefore, primarily established as a convenience for employers. It is noted that regulations of the United States Coast Guard establish minimum crew standards which are intended to insure that, when boats are at sea for protracted periods, they receive adequate rest periods.

9. UNIFORMS AND EQUIPMENT

The IWC retained its longstanding policy of requiring employers to provide uniforms, tools and equipment necessary for the performance of a job. Subsection (B) permits an exception to the general rule by allowing an employee who earns more than twice the State minimum wage to be required to provide hand tools and equipment where such tools and equipment are customarily required in a trade or craft. This exception is quite narrow and is limited to hand (as opposed to power) tools and personal equipment, such as tool belts or tool boxes, that are needed by the employee to secure those hand tools. Moreover, such hand tools and equipment must be customarily required in a recognized trade or craft.

11. MEAL PERIODS

Wage Orders 1, 2, 3, 6, 7, 8, 9, 10, 11, 13 and 15 continue the preexisting requirement of a meal period for an employee working for a period of more than five (5) hours, and provide for a second meal period in accordance with Labor Code §512(a).

Senate Bill 88, Stats. 2000, chapter 492, added subsection (b) to Labor Code § 512, which provides that, notwithstanding subsection (a), the IWC may adopt a working condition order that allows a meal period to begin after six hours of work if it determines that the order is consistent with the health and welfare of the affected employees. The IWC made such a determination with regard to Wage Order 12 and continued the existing language providing for a first meal for an employee working for a period of more than six (6) hours, and for a second meal period in accordance with Labor Code §512.

Consistent with the health, safety, and welfare of employees in the health care industry, the IWC determined that Wage Orders 4 and 5 should have somewhat different language regarding meal periods. The IWC received correspondence from members of the health care industry requesting the right to waive a meal period if an employee works more than a 12-hour shift. The IWC notes that Labor Code § 512 explicitly states that, whenever an employee works for more than twelve hours in a

day, the second meal period cannot be waived. However, Labor Code § 516 authorizes the IWC to adopt or amend the orders with respect to break periods, meal periods, and days of rest for all California workers consistent with the health and welfare of those workers.

5 See Section 9 of the Interim Wage Order.

The IWC received several comments concerning the potential prohibition of on-duty meal periods. Under the current IWC wage orders, an "on-duty meal period" is permitted only when (1) the nature of the work prevents the employee from being relieved of all duty, and (2) the employee and employer have entered into a written agreement permitting an on-duty meal period. An employee must be paid for the entire on-duty meal period since it is considered time worked.

Any employee who works more than six hours in a workday must receive a 30- minute meal period. If an employee works more than five hours but less than six hours in a day, the meal period may be waived by the mutual consent of the employer and employee.

Notwithstanding other provisions regarding meal periods, the IWC adopted proposed language prepared for its consideration by employee and employer representatives of the health care industry. This language provides that employees in the health care industry covered by Wage Orders 4 and 5 who work shifts in excess of eight (8) hours in a workday may voluntarily waive their right to one of their two meal periods, provided that the waiver is in writing and voluntarily signed by the employer and employee. The employee may revoke the waiver at any time by providing the employer with at least one (1) day's written notice of the revocation. However, while the waiver is in effect, the employee must be paid for all working time, including an on-the-job meal period.

During its review of its wage orders and of various industries pursuant to the provisions of AB 60, the IWC heard testimony and received correspondence regarding the lack of employer compliance with the meal and rest period requirements of its wage orders. The IWC therefore added a provision to this section that requires an employer to pay an employee one additional hour of pay at the employee's regular rate of pay for each work day that a meal period is not provided. An employer shall not count the additional hour of pay as "hours worked" for purposes of calculating overtime pay.

The IWC received no compelling evidence, and concluded there was no authority at this time, to warrant making any other change in the provisions of this section other than those required by AB 60.

12. REST PERIODS

As discussed above in Section 11, Meal Periods, the IWC heard testimony and received correspondence regarding the lack of employer compliance with the meal and rest period requirements of its wage orders. The IWC therefore added a provision to this section that requires an employer to pay an employee one additional hour of pay at the employee's regular rate of pay for each work day that a rest period is not provided. An employer shall not count the additional hour of pay as "hours worked" for purposes of calculating overtime pay.

Commercial Fishing Employees: The IWC added the last paragraph of Section 12 to insure that crew members on commercial passenger fishing boats are at sea for periods of twenty-four (24) hours or longer receive no less than eight (8) hours off duty within each twenty-four (24) hour period to permit

the employee to sleep. This rest period is in addition to the meal and rest periods otherwise required under Section 12.

17. EXEMPTIONS

This section previously allowed the Division of Labor Standards Enforcement, after an investigation and finding that enforcement would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, to exempt the employer and employees from the requirements of certain sections of the IWC's wage orders. After considering the testimony and correspondence it received with regard to meal periods, and in light of the mandatory provisions of Labor Code § 512, the IWC decided to remove Section 11, Meal Periods, from the list of sections that can be exempt from enforcement.

20. PENALTIES ⁶

This section sets forth the provisions of Labor Code § 558, which specifies penalties for initial and subsequent violations. In accordance with that section, the IWC voted to extend the penalties provisions to Wage Order 14. The IWC received inquiries as to whether "willfulness" is a required element for the issuance of a civil penalty. There were also concerns over the assessment of penalties against an employer's payroll clerk, payroll supervisor, or a payroll processing service for failure to issue checks reflecting the required overtime compensation. AB 60 fails to address these issues, but the IWC noted that there is no intent to penalize individuals that are merely carrying out policies formulated by an employer.

⁶ See Section 10 of the Interim Wage Order.

The 2002 Update Of
The DLSE
Enforcement Policies and Interpretations
Manual
(Revised)

ACKNOWLEDGEMENTS

The Division of Labor Standards Enforcement (DLSE) Enforcement Policies and Interpretations Manual summarizes the policies and interpretations which DLSE has followed and continues to follow in discharging its duty to administer and enforce the labor statutes and regulations of the State of California.

We would like to thank the following DLSE management, deputies, attorneys and clerical staff members for editing, cite checking and otherwise contributing to the Manual:

Robert Jones, Acting State Labor Commissioner

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March, 2006

DIVISION OF LABOR STANDARDS ENFORCEMENT

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48 BASIC OVERTIME INFORMATION.

- 48.1.1 **Minors.** Labor Code § 1391 provides that no minor (any person under the age of 18 years) shall be employed more than 8 hours in any workday. Minors 15 years or younger may not be employed more than 40 hours in any one week. However, Labor Code § 1391(a)(3) provides that a minor 16 or 17 years of age may work up to 48 hours in a workweek. Therefore, one and one-half times the minor's regular rate of pay shall be paid for all work over 40 hours in any workweek. Additionally, the wage orders provide that minors 15-17 years old who are not required by law to attend school may be employed for the same hours as an adult, and are subject to the same overtime pay requirements as adults. (See e.g., Order 4, Section 3)
- 48.1.2 **Definition Of Workday.** "Workday" is defined in the Industrial Welfare Commission Orders and Labor Code § 500 for the purpose of determining when daily overtime is due. A workday is a consecutive 24-hour period beginning at the same time each calendar day, but it may begin at any time of day. The beginning of an employee's workday need not coincide with the beginning of that employee's shift, and an employer may establish different workdays for different shifts. However, once a workday is established it may be changed only if the change is intended to be permanent and the change is not designed to evade overtime obligations. Daily overtime is due based on the hours worked in any given workday; and, of course, the averaging of hours over two or more workdays is not allowed. (O.L. 1993.12.09)
- 48.1.2.1 *Example:* 1. A factory worker whose usual shift is 7 a.m. to 3 p.m. has an established workday beginning at 7 a.m. On Tuesday night she is asked to work a special extra shift from 11 p.m. to 7 a.m. Wednesday. Since she has already worked eight hours on Tuesday, she is due time and a half beginning at 11 p.m. on Tuesday night until 3 a.m. and double time from 3 a.m. to 7 a.m. However, because her workday begins at 7 a.m. she may be paid straight time wages from 7 a.m. to 3 p.m. (her regular shift) on Wednesday regardless of the fact that the time worked is continuous.
- 48.1.3 **Definition Of Workweek.** "Workweek" is defined in the Industrial Welfare Commission Orders and Labor Code § 500 for the purpose of determining when weekly overtime is due. A workweek is any seven consecutive 24-hour periods, starting with the same calendar day each week, beginning at any hour on any day, so long as it is fixed and regularly recurring. An employer may establish different workweeks for different employees, but once an employee's workweek is established, it remains fixed regardless of his working schedule. An employee's workweek may be changed only if the change is intended to be permanent and the change is not designed to evade overtime obligations. (O.L. 1986.12.01)
- 48.1.3.1 Normally the workweek is the seven-day period used for payroll purposes. If it is not otherwise established in the record, for enforcement purposes DLSE will use the calendar week, from 12:01 a.m. Sunday to midnight Saturday, with each workday ending at midnight. Daily and weekly overtime is due based on the hours worked in the workday and workweek; the averaging of hours over two or more work weeks is not

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allowed. The only exception to the rule concerning calculation on the workweek basis is the work period of 14 consecutive days available to employers engaged in the operation of licensed acute care or extended care facilities covered by Order 5. Note, however, that in the case of an employer using the 14-day calculation, daily overtime for all hours in excess of eight is required.

48.1.3.2 *Example:* If an employee's workweek begins on Monday morning, but she is not called in to work until Wednesday to work seven consecutive 8-hour days, until Tuesday, she is not due any overtime. His or her workweek ends Sunday night and she has only worked 40 hours with no daily overtime Wednesday through Sunday. Monday begins a new workweek, and she could work 8-hour days through Friday without any overtime due, thus having worked 10 consecutive days without overtime.

48.1.4 **Fluctuating Workweek Compensation Arrangement Not Allowed.** The Fourth District Court of Appeal held that the use of the fluctuating workweek method of calculating overtime is not permissible in California. (*Skyline Homes, Inc., etc. et al v. Department of Industrial Relations, et al.* (1985) 165 Cal.App.3d 239, 166 Cal.App.3d 232 (Hrg.den.May 26, 1985), 212 Cal.Rptr. 792.) The court in *Skyline* explained in detail and fully analyzed the issues concerning the use of the fluctuating workweek. The *Skyline* court concluded that the federal "fluctuating workweek" method of calculation (*i.e.*, dividing salary wages by total hours) reduces the employee's regular hourly rate with each overtime hour worked, and is incompatible with the state law restrictions on uncompensated daily overtime imposed by the IWC wage orders*. (*Skyline*, 165 Cal.App.3d at 245-249.) One of the major differences between federal and state law in this area is the requirement in California that the premium pay for overtime is to be a penalty which creates a disincentive to employers to impose overtime on employees. (See *Industrial Welfare Commission v. Superior Court* (1980) 27 Cal.3d 690; *Skyline, supra*, see also O.L. 1991.01.07-1) Additionally, the enactment of Labor Code § 515(d) indicates that the California Legislature also concluded that the "fluctuating workweek" is not allowed.

48.1.5 The continuing validity of the *Skyline* decision has been reaffirmed by the California Supreme Court in *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575.

48.1.5.1 **Fluctuating Workweek Compensation Arrangement Defined.** Under this method, an employee is compensated by a fixed weekly salary which by agreement between the employer and employee is designed to provide basic non-overtime compensation for all hours worked. The employee's regular rate of pay, for purposes of overtime compensation, is determined by dividing the number of hours actually worked in a

*Recent research in IWC archives has disclosed that in 1963 "Findings", the Commission stated: "In defining its intent as to the regular rate of pay set forth in Section 3(a)(3)(A) and (B) to be used as a basis for overtime computation, the Commission indicated that it did not intend to follow the 'fluctuating work week' formula used in some computations under the Fair Labor Standards Act. It was the Commission's intent that in establishing the regular rate of pay for salaried employees the weekly remuneration is divided by the agreed or usual hours of work exclusive of daily hours over eight." Thus, the DLSE position (and the *Skyline* court) is correct.

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negligible, overlapped with time compensated and was therefore difficult to calculate, the time was not compensable under the Fair Labor Standards Act. In supporting its holding, the court noted that paying the employees for this negligible amount of compensable time would be administratively difficult for the employer, the aggregate amount of compensable time was insignificant, and that the additional work was not done on a regular basis. However, the court held, if the amount of time was significant or if the *regularity of occurrence* made the time significant, a different result would be had. *Lindow v. U.S.*, *supra*, 738 F2d 1057. (See discussion of policy at O.L. 1994.02.03-3.)

- 48.2 **"Makeup Work Time" Provisions Adopted By Legislature Are Now Part of IWC Orders Promulgated in 2000.** The IWC incorporated the language of Labor Code § 513 into each of the orders except 14:

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 the 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 in 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 a work time pursuant to this section. 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 workweek pursuant to this section.

- 48.2.1 Makeup work exception requires:

1. Written request by the employee to make up time which would be lost by the employee due to a personal obligation
2. Makeup hours worked in one day may not exceed eleven (11) nor, of course, may the number of makeup hours worked in one workweek exceed forty (40).
3. Request may be made for makeup time for a recurring personal obligation which is "fixed in time over a succession of weeks" provided a written request is made every four (4) weeks.

- 48.2.1.1 **Note:** The employer is prohibited from soliciting or encouraging employees to make a request for makeup hours, but informing employee of this right is permitted.

- 48.2.1.2 **Personal Obligation.** As an enforcement policy DLSE will not review the reason for the make-up time, so as to allow any employee to determine whether the need to take time off constitutes a "personal obligation" within the meaning of the statute.

- 48.3 **Work On Seventh Day In Workweek.** Formerly the IWC orders had language permitting employment of 7 days in a workweek, "*with no overtime pay required*" provided the total of hours of employment do not exceed 30 in the week or 6 in any one day. In other words, such employees were exempt from the seventh day of rest requirement and the seventh day of work premium pay requirement if the 30 in the week or 6 in any

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one day test was met. Such exemptions, unless repealed, remained valid despite the provisions of Labor Code § 510(a) by virtue of the language of Labor Code § 515(b)(2).

- 48.3.1 In all the new orders except 14 and 15, the IWC deleted the phrase "no overtime pay required" permitting employment of 7 days in a workweek provided that total hours for the week do not exceed 30 with no more than 6 hours worked in any one day but requires the payment of premium pay on the seventh day of work. Consequently, all employees (except those employed under Orders 14 and 15) meeting the hours criteria could be employed for seven days in a week if they were paid the applicable premium pay including for all of their hours worked on the seventh consecutive day of the workweek pursuant to Section 510(a).

Department of Industrial
Division of Labor Standards Enforcement

MEMORANDUM

Date December 23, 1999

From: Miles E. Locker
Chief Counsel for the Labor Commissioner

Marcy V. Saunders
State Labor Commissioner

To: All DLSE Professional Staff
Andrew Baron, IWC Executive Secretary

Subject: Understanding AB 60: An In Depth Look at the Provisions of
the "Eight Hour Day Restoration and Workplace Flexibility Act
of 1999"

This Memo was drafted prior to the IWC's adoption of the Interim Wage Order, and as such, this Memo does not purport to interpret the Interim Wage Order. To the extent that any provisions of the Interim Wage Order may be inconsistent with this Memo, the Wage Order provisions would prevail.

AB 60, which was enacted by the Legislature and signed by Governor Davis earlier this year, will take effect on January 1, 2000. It is therefore critically important that all DLSE professional staff take some time to learn about the provisions of this law, and to understand some of the questions that will arise in its interpretation and enforcement. This memo will summarize each section of the bill, with a focus on whether and how it changes existing law. We will also discuss commonly asked questions about AB 60, and by summarizing from recently issued or pending opinion letters, provide the answers to these questions.

AB 60 ---- An Introduction to the Substantive Provisions

The Legislature named AB 60 the "Eight Hour Day Restoration and Workplace Flexibility Act of 1999. That name tells us the two primary purposes behind the legislation --- first, to restore daily overtime in California; that is, to bring back the general requirement for overtime pay after eight hours of work in a day, a requirement that the Industrial Welfare Commission ("IWC") had eliminated from Wage Orders 1 (manufacturing industry), 4 (professional, technical, clerical, and mechanical occupations), 5 (public housekeeping industry), 7 (mercantile industry), and 9 (transportation industry), with the adoption of the 1998 wage orders. Section 21 of AB 60 provides that these 1998 wage orders (1-98, 4-98, 5-98, 7-98, and 9-98) shall be null and void; and that in their place, the pre-1998 wage orders (1-89, 4-89 as amended in 1993, 5-89 as amended in 1993, 7-80, and 9-90, are reinstated from January 1, 2000 until no later than July 1, 2000, at which point the IWC is required, pursuant to section 11 of the bill (which adds section 517 to the Labor Code) to adopt new wage orders.

It is very important to understand, however, that although only 5 of the 15 IWC wage orders that are currently in effect will become null and void on January 1, 2000, AB 60 as a whole applies to all California workers except for those who are expressly exempted by the bill itself, or those who were expressly exempted from a pre-1998 wage order. Section 9 of AB 60 adds section 515 to the Labor Code, which provides, at subsection (b)(2), that except for AB 60's new test for the administrative, executive and professional exemption found at section 515(a), "nothing in this section requires [the IWC] to alter any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997," and that "except as otherwise provided in [AB 60], the [IWC] may review, retain or eliminate any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997."

With these general principles in mind, we can answer the most commonly asked questions about AB 60 coverage. 13 of the pre-1998 wage orders expressly exempt public employees from their coverage. These public employees, who would otherwise be covered by a wage order but for the exemption "contained in" the wage order, are therefore exempt from AB 60. Likewise, truck drivers whose hours of service are regulated by the United States Department of Transportation (under 49 C.F.R. §395.1, et seq.) or by the California Highway Patrol or the State Public Utilities Commission (under 13 C.C.R. §1200, et seq.) are expressly exempt from the overtime provisions of the pre-1998 IWC orders. These workers are therefore exempted from the overtime provisions of AB 60. On the other hand, workers who were not expressly exempted from any pre-1998 wage order, such as on-site construction, drilling, mining and logging employees, are covered by AB 60. We should note, however, that Labor Code §515(b)(1) provides that until January 1, 2005, the IWC may establish additional exemptions from the overtime provisions of AB 60. Thus, employees engaged in on-site construction, drilling, mining and logging will be covered by AB 60 unless and until the IWC chooses to expressly exempt any of them from its provisions.

The statutory provisions of AB 60, or any other state law, will prevail over any inconsistent provision in the pre-1998 wage orders. For example, the current \$5.75 an hour state minimum wage, which was established by the electorate with the passage of the Living Wage Act of 1996, now codified at Labor Code section 1182.11, prevails over the lower minimum wage rates contained in the pre-1998 wage orders. Likewise, AB 60's salary basis test, which requires a

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monthly salary equivalent of at least twice the minimum wage, currently \$1,993.33 per month, as a prerequisite for the administrative, executive and professional exemptions from overtime, prevails over the remuneration test (and lower monthly amounts) for the administrative and executive exemptions in the pre-1998 wage orders. Therefore, starting on January 1, 2000, employers must comply with the pre-1998 wage orders, to the extent they are not inconsistent with AB 60 or any other controlling statutes, in which case the requirements of the statute will apply.

The second important purpose behind AB 60 is the intent to provide more options for work schedule flexibility than had been available in the pre-1998 wage orders. AB 60 maintains, with some changes, two of the mechanisms under the pre-1998 wage orders which permitted work schedules of more than eight hours per day without payment of daily overtime -- namely, the provisions for secret ballot elections to implement an "alternative workweek schedule," and the collective bargaining agreement opt-out provision. In addition to these mechanisms, there are two new provisions in AB 60 that permit individual employees to work more than eight hours in a day (but not more than the alternative number of hours -- either ten or eleven -- permitted by the statute), at the employee's request and under clearly specified conditions, without payment of overtime. The first of these new provisions allows for individual "make-up time" under which an employee can take time off for personal reasons and during the same workweek, make up that time by working up to eleven hours in a day without the payment of overtime. The second of these new provisions allows individual employees who were working on July 1, 1999 under a schedule that provided for up to 10 hours in a day to continue working this schedule without payment of daily overtime, even if this schedule was not established by an alternative workweek election. We will return to these flexible work schedule arrangements later in this memo. For now, we will simply note that although AB 60 allows for increased flexibility in work schedules, the statute imposes limits on the total hours that can be worked in a day under most flexible arrangements, and sets out strict procedures that must be followed in order to work more than eight hours in a day without the payment of daily overtime.

Finally, before embarking on a detailed review of AB 60, we should note that for DLSE, in its function as an enforcement agency, perhaps the most important change brought about by this new law is creation of a new method for enforcing overtime obligations. Under section 14 of the bill, section 558 is added to the Labor Code, under which the DLSE may issue a civil penalty citation to an employer that violates the provisions of AB 60 or any provision regulating hours and days of work in any IWC order. These penalties are set at the amount of \$50 for an initial violation (or \$100 for any subsequent violation) per underpaid employee for each pay period in which the employee was underpaid. In addition, the civil penalty citation may include the amount owed to employees for underpaid overtime wages.

A Section by Section Look at AB 60

Definitions: Section 3 of AB 60 adds section 500 to the Labor Code, defining certain words that are used in the statute. The word "workday" is defined as "any consecutive 24 hour period commencing at the same time each calendar day." The word "workweek" is defined as "any seven consecutive days, starting with the same calendar day each week," and as "a fixed and regularly recurring period of 168 hours" made up of "seven consecutive 24-hour periods." Finally, the term "alternative workweek schedule" is defined as "any regularly scheduled workweek requiring an employee to work more than eight hours in a 24-hour period." These definitions are unchanged from the pre-1998 wage orders. An employer may designate the period of the workday and the workweek. Absent pre-designation by the employer, DLSE will treat each workday as starting at midnight, and each workweek as starting at midnight on Sunday, so that Sunday is the first day of the workweek and Saturday the last.

The Basic Overtime Law: Section 4 of AB 60 amends Labor Code §510, to set out California's new basic overtime law. First, it requires overtime compensation at the rate of no less than one and one-half the employee's regular rate of pay for all hours worked in excess of eight in one workday, and for all hours worked in excess of 40 in one workweek, and for "the first eight hours worked on the seventh day of work in any one workweek". Second, it requires overtime compensation at the rate of double the employee's regular rate of pay for all hours worked in excess of 12 hours in one day, and "for any work in excess of eight hours on any seventh day of a workweek."

This basic overtime law is the heart of AB 60. It restores daily overtime, and takes the basic overtime provisions found in almost all of the pre-1998 wage orders -- time and a half for all hours worked in a workday in excess of 8 and up to 12; double time for all hours worked in a workday in excess of 12; time and a half for all hours worked in excess of 40 in a workweek; and seventh day premium pay -- and enshrines these provisions as statutory requirements.

We have received many inquiries concerning the provision for seventh day premium pay. The time and a half provision reads slightly differently than the double time provision: time and a half for "the first eight hours worked on the seventh day of work in any one workweek," and double time for "any work in excess of eight hours on any seventh day of a workweek." This raises the question whether AB 60 requires double time for any work performed in excess of eight hours on the seventh day of the workweek, even if the employee has not worked all seven days of that workweek. We do not believe this would be a logical reading of the statute; rather, both the time and a half and double time provisions for seventh day premium pay must be harmonized to require that the employee work all seven days of the workweek in order to qualify for this type of premium pay. The purpose of seventh day premium pay is to provide extra compensation to workers who are denied the opportunity to have a day off during the workweek; not to reward someone who may only be scheduled to work one day a week for having fortuitously been scheduled to work on what is the seventh day of the employer's workweek. This reading of AB 60 is consistent with the provisions for seventh day premium pay contained in the pre-1998 wage orders, and we are unable to discern any intent on the part of the legislature to modify those provisions.

Example: An employer has no pre-designated workweek. An employee of that employer works the following schedule: Sunday-off; Monday-off; Tuesday-8 hours; Wednesday-8 hours; Thursday-8 hours; Friday-8 hours; Saturday-8 hours; Sunday-8 hours; Monday-8 hours; Tuesday-8 hours; Wednesday-8 hours; Thursday-8 hours; Friday-off; Saturday-off. Is the employee entitled to any overtime pay or seventh day premium pay? Answer-NO. There is no daily overtime, because the employee never worked more than eight hours in a day. There is no weekly overtime, because the employee did not work more than 40 hours during each of the two workweeks (running from Sunday to Saturday). And even though the employee worked ten days in a row, there is no seventh day premium pay, because the employee did not work seven consecutive days in any one workweek.

The statute also provides that "nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work." This is consistent with DLSE's enforcement of the pre-1998 wage orders. It simply means that there is no "pyramiding" of separate forms of overtime pay for the same hours worked. Once an hour is counted as an overtime hour under some form of overtime, it cannot be counted as an hour worked for the purpose of another form of overtime. When an employee works ten hours in one day, the two daily overtime hours cannot also be counted as hours worked for the purpose of weekly overtime.

Example: An employee works 12 hours on Monday, Tuesday, Wednesday, and Thursday. How many non-overtime and overtime hours did the employee work that week? Answer-- The employee is credited with 4 hours of daily overtime each day worked, for a total of 16 daily overtime hours, and these daily overtime hours cannot be counted for the purpose of determining when to start paying time and a half for hours worked in excess of 40 in a week. Because pyramiding is not allowed, there are no weekly overtime hours, even though the employee worked 48 total hours during the workweek. Only 32 of these hours were regular, non-daily overtime hours, and they are the only hours that count towards weekly overtime computations.

Labor Code §510 provides for certain exceptions from the basic overtime law. The overtime requirements of section 510 do not apply to an employee working pursuant to:

1. an alternative workweek schedule adopted pursuant to Labor Code §511, discussed below, or
2. an alternative workweek schedule adopted by a collective bargaining agreement pursuant to Labor Code §514, discussed below, or
3. an alternative workweek schedule for any person employed in an agricultural occupation, as defined in IWC Order 14. (Section 9 of AB 60 amends section 554 of the Labor Code to exclude persons employed in agricultural occupations from all of AB 60, except for section 558, the section that sets out civil penalties for violations of the overtime provisions contained in AB 60 or in any IWC order. Thus, the basic overtime law, now found at Labor Code §510, does not apply to workers covered by IWC Order 14. However, an agricultural employer that violates the special overtime provisions of Order 14 will be subject to a penalty citation just like any other employer.)

Finally, section 510 retains the existing provision regarding "ridesharing," which states that time spent commuting to and from the first place at which an employee's presence is required by the employer shall not be considered to be part of a day's work, when the employee commutes in a vehicle that is owned, leased or subsidized by the employer, and is used for the purpose of ridesharing. Of course, once the employee reaches the first place at which his or her presence is required by the employer, all time spent subject to the control of the employer (whether or not the employee is then engaged in physical or mental labor), and all time during which the employee is suffered or permitted to work, must count as hours worked under the various IWC orders.

Non-Collectively Bargained Alternative Workweek Schedules: Section 5 of AB 60 adds section 511 to the Labor Code, which permits certain non-collectively bargained alternative workweek schedules. Under subsection (a), an employer may propose a "regularly scheduled alternative workweek" authorizing work by the affected employees "for no longer than 10 hours per day within a 40-hour workweek" without payment of overtime compensation. The proposed "regularly scheduled alternative workweek" may be "a single work schedule that would become the standard schedule" for all of the workers in the work unit, or "a menu of work schedule options, from which each employee in the unit would be entitled to choose."

Whether it is the only work schedule for an entire work unit or one of several options on a menu available to the workers in the unit, the "regularly scheduled alternative workweek" must provide for specified workdays and specified work hours, and these workdays and work hours must be fixed and regularly recurring.

Adoption of an alternative workweek schedule under section 511(a) requires a secret ballot election with approval by at least two-thirds of the affected employees. We have received many inquiries concerning the procedures to be followed in holding such an election. Section 11 of AB 60 adds section 517 to the Labor Code, which requires the IWC, no later than July 1, 2000, to adopt wage orders which must include procedures for conducting elections to establish or repeal alternative workweek schedules, procedures for implementing such alternative schedules, the procedures for petitioning to repeal an alternative workweek schedule, the conditions under which an employer can unilaterally repeal such a schedule, the contents of any required notices or disclosures to employees, and the factors in designating a work unit for purposes of an election. Until such new wage orders are adopted by the IWC, employers must comply with the procedures dealing with alternative workweek elections that are found in the applicable pre-1998 IWC wage order, to the extent that those procedures are not inconsistent with AB 60.

Each worker eligible to vote in an election must be informed, prior to the election, of the precise work schedule -- that is, the precise workdays and work hours -- that he or she will be assigned to work (or, in the case of an election to establish a "menu of work schedule options", allowed to choose from) if the alternative work schedule is adopted. We have been asked whether an employer can establish a menu of work schedule options through an election, and then, if too many or too few workers choose to work one of the alternative schedules, assign workers to work schedules on some basis other than the workers' choice. The answer to this is no, as the statute clearly provides that "each employee in the unit would be entitled to choose" among the various work schedule options on the "menu." If the employer's business needs preclude allowing its employees to freely choose among work schedule options, the employer should not propose a "menu of work schedule options". Instead, the employer may be able to propose more than one alternative work schedule by dividing the workforce into separate work units, and proposing a different alternative work schedule for each unit, so that each worker knows exactly what schedule he or she is voting for.

A "regularly scheduled alternative workweek" permitted by section 511(a) cannot provide for *regularly scheduled* workdays in excess of 10 hours or *regularly scheduled* workweeks in excess of 40 hours. Thus, *regularly scheduled* workdays for longer than 10 hours (except within the health care industry, which is discussed below) are not permitted under a non-collectively bargained alternative workweek schedule, and if an employer whose employees are working pursuant to an alternative workweek schedule *regularly scheduled* workdays in excess of 10 hours, DLSE will conclude that these employees are not working an alternative workweek schedule permitted under section 511(a), and thus, the employer will be required to pay overtime compensation for all hours worked in excess of eight in a day or 40 in a week, as required by section 510.

Example: An employer covered by Wage Order 7, whose employees have voted to adopt a 4/10 alternative workweek schedule (4 workdays a week, 10 hours per workday, for a total of 40 hours worked each workweek) pursuant to section 511(a), seeks to have its employees regularly work 12 hours each workday, and asks whether it can do this by paying two hours overtime, at time and a half, for the extra two hours each workday. The answer is NO. A regularly scheduled 12 hour workday is not permitted under section 511(a), so this is not a valid regularly scheduled alternative workweek. As such, section 510 will apply to require time and a half for all hours worked in excess of eight in a workday. The employer must pay time and a half for 4 overtime hours each workday.

However, it is expected that there will be occasions, *not regularly recurring*, when an employee working under an alternative workweek schedule adopted pursuant to section 511 will be required to work extra hours beyond those that are regularly scheduled. These occasions are addressed by subsection (b) of section 511, which provides that an employee working under an alternative workweek schedule adopted pursuant to subsection (a) shall be paid overtime compensation at the rate of no less than one and one-half times the employee's regular rate of pay for any work in excess of the regularly scheduled hours established by the alternative workweek agreement and for all hours worked in excess of 40 per week, and at the rate of no less than double the employee's regular rate of pay for all hours worked in excess of 12 hours per day and for any work in excess of 8 hours on days worked other than workdays that are regularly scheduled under the alternative workweek. The same prohibition of "pyramiding" different types of overtime pay, found at section 510, is contained in section 511.

Example: A secret ballot election results in the adoption of an alternative workweek schedule under which the affected workers are to work four ten hour days (Monday-Thursday), for a total of 40 hours work each workweek. No overtime compensation is required when the employees work the hours that are authorized by this alternative workweek schedule. On occasion, the employer assigns extra work to these employees. This extra work is not assigned on a regular or recurring basis. One workweek, an employee working under this alternative workweek schedule works the following hours: Monday-10 hours, Tuesday-12 hours, Wednesday-14 hours, Thursday-10 hours, Friday-10 hours, Saturday-off, Sunday-off. There is no overtime for Monday or Thursday (since the employee did not work any extra hours, outside his or her regularly

scheduled hours, on those days); the extra two hours worked on Tuesday must be paid at time and a half; the extra four hours worked on Wednesday are paid at time and a half for the first two hours and at double time for the next two hours (since those final two hours were beyond 12 hours in a day); the extra 10 hours worked on Friday must be paid at time and a half for the first eight hours (since those hours were not regularly scheduled, as Friday is not a regularly scheduled workday) and at double time for the final two hours (since these two hours exceeded eight hours on a non-regularly scheduled workday).

We have been asked whether AB 60 permits alternative workweek schedules of less than 40 hours per week. Section 511(a) permits the adoption of a regularly scheduled alternative workweek "that authorizes work by the affected employees for no longer than 10 hours per day within a 40 hour workweek." The word "within" means any workweek of no more than 40 hours, and would include workweeks of less than 40 hours. However, paragraph 3(B) of Order 1-89 (manufacturing) contains a unique provision, not found in any other wage order, that requires an alternative work schedule to provide for "not more than ten hours per day within a workweek of not less than 40 hours." Thus, employers covered by Order 1-89 are prohibited from establishing an alternative schedule of less than 40 hours per workweek. All other employers, under AB 60, can establish alternative schedules that provide for up to 40 hours in a workweek. The IWC, of course, may consider amending the language in Order 1 to conform to the more liberal provisions of the statute.

We have received many inquiries as to whether AB 60 prohibits the adoption or retention of a so-called "9/80" alternative work schedule that does not provide for the payment of overtime. Under a 9/80 schedule, employees will work 9 hours a day from Monday through Thursday, 8 hours on Friday, followed by a week of 9 hours worked each day on Monday through Thursday, and no hours worked on Friday. If the employer has not pre-designated a workday and workweek, the standard midnight to midnight workday (based on the calendar day) used by DLSE for enforcement purposes will result in 44 hours worked the first workweek of this schedule, followed by 36 hours worked the second workweek. And since a regularly scheduled alternative workweek adopted by a secret ballot election cannot provide for more than 10 hours regularly scheduled within a workweek, the fact that every other workweek is regularly scheduled to exceed 40 hours would defeat the alternative workweek, and mandate payment of overtime for all hours worked in excess of 8 in a day or 40 in a week. But by pre-designating the workday to run from noon to noon, and by pre-designating the workweek to run from Friday noon to next Friday at noon, the employer can establish a 9/80 schedule that does not exceed 40 hours in a workweek, in that the eight hours worked every other Friday are split in half, with the 4 hours worked before noon falling into the first workweek, and the 4 Friday hours worked after noon falling into the second workweek.

Of course, as with any other alternative workweek schedule under section 511, the 9/80 schedule cannot be unilaterally imposed by the employer but must be (or have been) adopted by the requisite two-thirds vote in a secret ballot election to allow for this schedule without the payment of daily overtime.

Prohibited Reduction of Regular Rate of Pay: Subsection (c) of section 511 provides that "an employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule." This is a new protection, that never before existed in the Labor Code or any IWC order. This prohibition only applies to reductions in the regular rate of pay that are implemented on or after January 1, 2000; it does not apply to any reduction implemented prior to January 1, 2000. The prohibition applies to repeals resulting either from an election or from an employer's unilateral decision, and to the nullification of any alternative workweek schedule by operation of AB 60. The prohibition would be enforceable by filing an individual wage claim or a civil action to recover unpaid wages owed to a worker or group of workers based on the wage rates that were in effect prior to the unlawful reduction, and through injunctive relief.

Reasonable Accommodation: Under subsection (d), an employer must make a reasonable effort to find a work schedule of no more than eight hours in a workday to accommodate any employee who was eligible to vote in the election that established the alternative workweek schedule, if such employee is unable to work the hours established by the election. Employers do not have a duty to make such an effort on behalf of any employee who is hired after the election was held, except for a duty to explore any available alternative means of accommodating the religious beliefs of those employees whose religious observances conflict with an adopted alternative workweek schedule. However, the statute permits the employer to provide a work schedule of no more than eight hours in a workday to any employee who is hired after the adoption of an alternative workweek schedule if that employee is unable to work the alternative schedule.

Reporting the Results of the Election: Subsection (e) requires the employer to report the results of any such election (regardless of the outcome of the election) to the Division of Labor Statistics and Research (DLSR) within 30 days after the results are final. AB 60 does not indicate whether the failure to comply with this reporting requirement could invalidate the result of the election. We would expect the IWC to address this issue in its post-AB 60 regulations. Any employer covered by reinstated Order 1-89 (manufacturing industry) is subject to an additional requirement, unique to that Order, that no agreement for an alternative workweek shall be valid until it is filed with DLSE. Thus, employers under Order 1 must report election results to both DLSR and DLSE, and such employers cannot implement an alternative workweek schedule without first reporting the election results to DLSE.

Presently Existing Non-Collectively Bargained Alternative Work Schedules: Subsection (f) of section 511 provides that any presently existing alternative workweek schedule that was adopted pursuant to IWC Wage Orders 1, 4, 5, 7, or 9 shall be null and void, except for an alternative workweek that meets all of the following conditions:

1. it provides for no more than 10 hours of work in a workday (except for 12 hour workdays that are allowed in the health care industry, as specified in subsection (g), discussed below).
2. it was adopted by a two-thirds vote of the affected employees in a secret ballot election.
3. the election was held "pursuant to wage orders of the Industrial Welfare Commission in effect prior to 1998.

AB 60 thus puts an end to any alternative workweek schedules that were unilaterally established by employers pursuant to the 1998 wage orders, except for certain voluntary arrangements as specified in subsection (h) of section 511, discussed below. Alternative workweek schedules that were adopted under wage orders that were not amended in 1998 (those that left daily overtime undisturbed) should meet the prerequisites for a regularly scheduled alternative workweek under AB 60, so they are not nullified by operation of statute. These prerequisites are a maximum of ten hours work in a workday, a maximum of 40 hours in a workweek, adoption by a secret ballot election with a 2/3 vote of approval by the affected employees, with the election conducted pursuant to the procedures specified in the applicable wage order.

We have received many inquiries from employers that unilaterally adopted an alternative workweek under the 1998 wage orders, and that now wish to establish alternative workweek schedules that will not be nullified upon the effective date of AB 60. Of course, those employers could wait until January 1, 2000, to propose alternative workweek schedules that may then be adopted by a two-thirds vote in secret ballot elections conducted pursuant to the procedures specified in the applicable reinstated pre-1998 wage order. But many employers would like to establish a "nullification-proof" alternative workweek schedule in advance of January 1, 2000, so as to allow for a seamless

transition. These employers have focused on the requirement that the election have been held "pursuant to wage orders . . . that were in effect prior to 1998," and have asked whether this means that to be valid and not subject to nullification, the election must: (1) have been held or be held on a date when the applicable pre-1998 wage order was or will be in effect (that is, prior to January 1, 1998, or after January 1, 2000), or (2) have been held or be held at any time until the IWC adopts the post-AB 60 wage orders, including the period until December 31, 1999 while the 1998 wage orders remain in effect, as long as the employer complied with the election procedures (including requirements for employee notification, etc.) contained in the applicable pre-1998 wage order. We believe that the intent of AB 60 is best effectuated by construing this ambiguous provision in accordance with the latter interpretation, so as to allow employers who are presently subject to a 1998 wage order to conduct an election by following all of the procedures provided in the applicable pre-1998 wage order.

Finally, turning to those alternative workweek schedules that will not be nullified by operation of AB 60 on January 1, 2000, subsection (f) provides that "any type of alternative workweek schedule that is authorized by this code and that was in effect on January 1, 2000, may be repealed by the affected employees." Procedures for repeal will be contained in the IWC's post-AB 60 wage orders. Until those orders are adopted, procedures for repeal are governed by the applicable pre-1998 wage order. Under long-standing DLSE enforcement policy, an employer that wants to terminate an alternative workweek schedule can do so unilaterally, without holding a repeal election, after providing reasonable advance notice to its employees. If the IWC wishes to prohibit such unilateral repeals, it may do so through its post-AB 60 regulations.

Two Important Exceptions to Subsection (f) of Labor Code §511:

- - The first exception to subsection (f) is found at subsection(g), which deals with the health care industry. It provides that an alternative workweek schedule in the health care industry adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to Wage Order 4-89 as amended in 1993, or Wage Order 5-89 as amended in 1993, that provided for workdays exceeding 10 hours but not exceeding 12 hours in a day without the payment of overtime compensation, shall be valid until July 1, 2000. Of course, if the alternative workweek schedule adopted pursuant to such an election provided for a workday that does not exceed 10 hours, it would meet the criteria set out in subsection (f), and it would therefore remain valid indefinitely.

Several health industry employers have asked whether there is any possibility, under AB 60, for extending alternative workweek schedules that provide for 12 hour workdays past July 1, 2000. At present, it would appear that any regularly scheduled non-collectively bargained alternative workweek in the health care industry that provides for workdays that exceed 10 hours will be nullified by operation of the statute following July 1, 2000; and unless the affected employees adopt an alternative workweek schedule that comports with AB 60's limits and any provisions that may be adopted by the IWC, the basic overtime requirements of section 510 will apply.

- - The second exception to subsection (f) of Labor Code §511 is found at subsection (h), which permits an individual employee to continue to work an alternative workweek schedule without the payment of daily overtime compensation, even if the schedule was established by the employer unilaterally, without an election, under the 1998 wage orders, if all of the following conditions exist:

1. the employee was employed on July 1, 1999, and
2. the employee was then voluntarily working an alternative workweek schedule, and
3. this schedule did not provide for work in excess of 10 hours of work in a workday, and
4. this employee makes a written request to the employer to continue working this schedule, and
5. the employer approves the written request.

Employees hired after July 1, 1999 will not be eligible for this non-collectively bargained, non-secret ballot approved, individual alternative workweek schedule. If the employee, as of July 1, 1999, was working an alternative workweek with regularly scheduled workdays of more than 10 hours, this option is unavailable, even if the employee and employer are now willing to limit the workday to 10 hours. A written request to continue working this individual alternative workweek without payment of daily overtime will only be effective as to work performed after the date of the request; the employer must pay the applicable daily overtime compensation for any work performed prior to the date that the written request is executed and approved. Finally, because this exception allows for individual voluntary agreements, DLSE has determined that the employee can, at anytime, revoke his or her written request to continue working this sort of alternative workweek schedule, in which case the employer must henceforth pay daily overtime in accordance with the provisions of AB 60.

Individual "Make-Up Time" and the Flexible Workweek: The most significant new aspect of work time flexibility is found at section 7 of AB 60, which adds section 513 to the Labor Code, to provide a mechanism for individual employees to take time off to attend to their personal needs, and to then make up that time within the same workweek, without the payment of overtime compensation except for hours worked in excess of 11 in one workday or 40 in one workweek. The employee benefits by not losing any pay, or incurring any loss of sick or vacation time, for the time off; and the employer benefits by not having to pay daily overtime to the employee who is working more than eight hours (but not more than 11 hours) in a day in order to make up the missed time.

Make-up time will not count in computing the total number of hours worked in a day for the purposes of the overtime requirements specified in section 510 (the basic overtime law) and section 511 (the provisions for regularly scheduled alternative workweeks) only if the make-up hours are worked in the same workweek in which the work time was lost. Also, the employer will not have to pay overtime compensation for the make-up work only to the extent that the employee performing the make-up work does not exceed 11 hours of work in a workday or 40 hours of work in a workweek. In other words, when an employee works more than eight hours in a workday because the employee is performing make-up work that day, any work performed in excess of 11 hours that day must be paid at the appropriate overtime rate. Likewise, any work performed in excess of 40 hours during the workweek must be paid as overtime.

Under section 513, make up time is permitted if the employer approves the employee's signed written request to make up time that has been or that will be lost as a result of the employee's personal needs. The employer may choose to grant or deny any request to work make up time. A separate written request is needed each time the employee asks to make up work time pursuant to this section. The request need not be made prior to the employee taking off the time, but must be made prior to the performance of the make up work in order to ensure that the employer is not liable for daily overtime for the make up hours. Any daily overtime hours worked prior to a request to perform make up work cannot be credited as make up time, but rather, will constitute time for which overtime compensation must be paid. And most importantly, time that is taken off in one workweek can only be made up during that same workweek; if it is worked in a different workweek than the when it was taken, the daily overtime hours worked must be paid as overtime.

The statute expressly prohibits employers from "encouraging or otherwise soliciting an employee to request an employer's approval to take personal time off and make up the work hours within the same week pursuant to this section." This does not prohibit employers from merely informing workers of the provisions of this statute; however, it clearly does prohibit employers from suggesting, recommending (or certainly, ordering) that workers "request" make up time.

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We have been asked whether make-up time can be worked in advance of the date that the time being made up is lost. There is nothing in the statute that would prohibit this, so long as the make-up work is performed during the same workweek in which the time is lost. Thus, if an employee knows that he or she will need to take time off to attend to personal needs on the last day of the workweek, the employee can make-up this time in advance, during the preceding days of that workweek. The question that then follows is: does the employer have any overtime exposure if that worker, after working the make-up time, decides not to take the time off, and works the time that he or she had planned on taking off? The answer to this would depend on whether the employee ended up working more than 40 hours in that workweek. If so, section 513 requires payment of overtime for all hours worked in excess of 40 in a workweek. If the employee did not end up working more than 40 hours that workweek, the employer would not be liable for any daily overtime (provided that the employee did not work more than 11 hours in any workday, and that any hours worked in excess of eight in any one workday were worked as make-up time). The reason the employer would not be liable for any daily overtime under this scenario is because the employer agreed to allow the employee to work these extra daily hours without payment of daily overtime in order to make-up time that the employee asserted would be lost later in the workweek due to the employee's personal obligations, and the employer relied on the employee's assertion in granting this request. On the other hand, if an employer revokes its previously granted permission to allow an employee to perform make-up work after the make-up work is performed, but before the time off is taken, the employer will be liable for all daily overtime, and the extra daily hours worked will not be treated as make-up time.

Finally, we have been asked whether these make-up time provisions apply to employees working under regularly scheduled alternative workweeks. The answer is yes, section 513's make-up time provisions expressly apply to workers covered by section 510, the basic overtime law, and to workers covered by section 511, which authorizes alternative workweek schedules. Of course, a worker employed under a valid alternative workweek schedule which provides for 10 hours of work in a workday without payment of overtime will only be able to work one extra hour of make-up time during such a workday before exceeding the 11 hour per day cap that triggers overtime for all subsequent make-up time worked that day. Because make-up time applies to workers employed under an alternative workweek schedule, such workers may perform up to 11 hours of make-up work on a day that they are not regularly scheduled to work without the payment of overtime compensation that would otherwise be required, pursuant to section 511(b), for working on a day other than a regularly scheduled workday.

Examples: An employee scheduled to work an eight hour workday can work an additional three hours that day as make-up time without the payment of daily overtime. An employee scheduled to work a six hour workday can work an additional five hours that day as make-up time without the payment of daily overtime. An employee scheduled to not work at all on a specific day can work up to 11 hours of make-up time that day without the payment of overtime, whether the worker is covered by the basic overtime law or is working under an alternative workweek schedule pursuant to section 511. On the other hand, an employee not covered by a regularly scheduled alternative workweek pursuant to section 511, who is nonetheless scheduled to work nine hours in a workday, can work two hours of make-up time that day without payment of overtime for the make-up time, but must be paid overtime for the one overtime hour of scheduled, non-make-up work. If this same employee works three hours of make-up time, resulting in 12 hours of work that workday, the employee must be paid two hours of overtime at the rate of one and one-half times the regular rate (one hour for the ninth hour of scheduled work, and another hour for the make-up time that exceeded the eleventh hour of work that day). Finally, if this same employee works four hours of make-up time, resulting in 13 hours of work that workday, the employee must be paid 2 hours of overtime at time and a half, and one hour of overtime at twice the regular rate of pay.

The Collective Bargaining Agreement Opt-Out Provision: Section 8 of AB 60 adds section 514 to the Labor Code, which makes AB 60's overtime and meal period provisions inapplicable to employees who are covered by a collective bargaining agreement ("CBA"), if the CBA expressly provides for the wages, hours and working conditions of the employees, and provides a regular hourly wage rate for those employees of not less than 30 percent more than the state minimum wage, and "provides premium wage rates for all overtime hours worked." If a CBA meets these provisions for the opt-out, the workers covered by the CBA are not entitled to statutory overtime; rather, they will receive premium pay for all overtime hours worked, as provided by the CBA. This is somewhat different from prior law, in that the opt-out under the IWC orders had required payment of a regular rate of at least \$1 an hour more than the state minimum wage; and under the new "30 percent above" formula, the required regular rate would now be seven dollars and 47 and a half cents (\$7.475) per hour. And of course, future increases in the state minimum wage will automatically result in increases in the regular rate required for the opt-out. If the opt-out requirements are met, workers are paid for all hours worked in accordance with the provisions of the CBA. It should be remembered, however, that there is no CBA opt out under the Fair Labor Standards Act, which requires payment of overtime at the rate of one and one half the regular rate of pay for all hours worked in excess of 40 in a workweek.

The term "premium wage rates" are not defined in AB 60 or in the IWC orders. The term has always been interpreted to mean any wage rate in excess of the applicable straight time regular hourly rate of pay. There is no indication that the Legislature intended this term to be interpreted in any other manner. Indeed, it would make no sense to interpret the term as synonymous with a statutory overtime rate such as one and a half times the regular rate, since the very purpose of an opt-out provision is to allow for an alternative to the minimum standard that would otherwise be required by statute. The amount by which the premium exceeds the regular rate is left to the parties to negotiate; we will recognize any rate higher than the regular rate as a premium.

We have received several inquiries regarding the meaning, within section 514, of the term "all overtime hours." The one thing it cannot mean is all hours worked in excess of eight in a day without regard to any definition of overtime that might be contained in the CBA, since such a meaning would prohibit unions from collectively bargaining for the very same alternative workweek schedules that non-unionized workers could adopt under AB 60 -- that is, work schedules of up to 10 hours a day (and 12 hours a day in the health care industry) without the payment of daily overtime or premium pay. There is nothing to indicate that the Legislature intended such a peculiar result. The IWC's post-AB 60 regulations may provide further guidance on the parameters of the CBA opt-out.

As with any other wage claims that are filed with DLSE by employees covered by a CBA, any claims for overtime where a CBA is involved must be reviewed by DLSE Legal in accordance with the consent decree in *Livadas v. Radshaw*.

Administrative, Executive and Professional Exemption: Section 9 of AB 60 adds section 515 to the Labor Code. This is the section that codifies, with some very significant changes from prior law, the administrative, executive, and professional exemptions from overtime. First, there are two ways in which AB 60 merely codifies pre-existing California law. As was the case under the IWC orders, there is no exemption, no matter how highly the employee may be paid, unless the employee is "primarily engaged" in exempt work, and the term "primarily" is defined as more than one-half the employee's work time. Thus, state law continues to differ from federal law, which is less protective of workers; in that under federal law, the focus is on the employee's "primary duty," and an employee may be found to have a "primary duty" as a manager even if the worker spends most of his or her work time performing non-exempt tasks. In contrast, state law looks to what the worker is "engaged in," that is, what is the worker physically doing.

AB 60 also codifies California's pre-existing fixed workweek method for calculating overtime compensation owed to a non-exempt salaried employee, a method that was approved by the courts 15 years ago in the *Skyline Homes* case. Under this method, the salary paid to a non-exempt salaried employee only covers the 40 non-overtime hours of the workweek; it does not serve to compensate the worker for any overtime hours worked. This weekly salary must be divided by 40 to establish a regular hourly rate of pay, which is then the basis for all overtime calculations. Overtime hours

worked are then paid at either one and one half times the regular rate, or double the regular rate, as required. This contrasts with the less protective federal fluctuating workweek method, under which a salary paid to a non-exempt employee is deemed to cover all hours worked (including overtime hours); so the more overtime hours worked, the lower the regular rate of pay, and so that overtime hours worked are only paid at one-half the employee's regular rate of pay. AB 60 does not change the method of computing overtime compensation for employees who are paid on a commission or piece rate basis; which under both state and federal law is based on a fluctuating workweek whereby total weekly commission or piece rate earnings are divided by the total number of hours (including overtime hours) worked in the week to compute the regular rate of pay; and overtime hours are then compensated at one-half this regular rate of pay.

To be sure, AB 60 brings about some very significant changes in the administrative, executive and professional exemptions. Under prior law, there was no minimum remuneration or salary requirement for the professional exemption. Under Labor Code section 515, the professional exemption is subject to the same minimum salary requirement as the administrative and executive exemption. The so-called "remuneration" requirement under prior law is now changed to a requirement of a monthly salary, equivalent to no less than twice the minimum wage for full time work (defined as employment for 40 hours per week), which would now require a salary of at least \$1,993.33 per month. Since the required salary is set as a multiple of the minimum wage, future increases in the state minimum wage will result in corresponding increases in the threshold salary for the exemption. The value of any payments in kind, or other forms of remuneration (such as employer provided meals or lodging) cannot be used as a credit against this required minimum salary. The legislative intent in switching from remuneration to salary was to explicitly adopt the federal salary basis test, to the extent that it is consistent with California wage and hour law. Thus, employees who are paid on the basis of an hourly wage, or commissions, or piece rates, cannot be exempt from payment of overtime under the administrative, executive or professional exemptions.

We have been asked whether a part-time employee working in a bona fide executive, administrative, or professional capacity (that is, one who is "primarily engaged" in such exempt work) can be exempt if he or she is paid a monthly salary that is less than the full-time salary equivalent of twice the minimum wage, but not less than the applicable percentage of the minimum monthly required salary, based on the proportion of time that the part-time employee works in relation to a full time, forty hour week. For example, can an attorney employed by a law firm on a part-time 20 hour per week basis, be exempt if paid a monthly salary of \$1,000? The answer to that question is no; we do not believe that this monthly minimum required salary can be reduced, even if the ostensibly exempt employee is scheduled to work less than 40 hours per week. An exempt employee is expected to exercise discretion and independent judgment in order to decide the number of hours to devote to a particular task, and cannot be expected to confine his or her work hours to a set schedule, as any such employer-imposed limitation on hours worked would be inconsistent with the discretion and independent judgment that is the hallmark of exempt work. Section 515(a)'s requirement of "a monthly salary equivalent to no less than two times the state minimum wage for full-time employment," simply serves to set the amount of the required monthly salary as a multiple of the minimum wage; and not to permit reductions of this monthly threshold salary for employees who work less than 40 hours per workweek.

As was the case under the IWC orders, section 515(f) provides that the professional exemption shall not apply to registered nurses. Another bill that was passed and signed by the Governor this year, AB 651, provides that the professional exemption shall not apply to pharmacists, a category of workers who formerly were expressly exempted, under the IWC orders, as licensed professionals.

AB 60 does not define the duties that characterize exempt work. Section 515(a) gives the IWC the task of "reviewing the duties which meet the test of the exemption," and then, if the IWC chooses, it may convene public hearings to adopt or modify regulations pertaining to these duties. Under the existing IWC orders, the duties are spelled out only in the broadest terms --- "work which is primarily intellectual, managerial or creative, and which requires the exercise of discretion and independent judgment." In enforcing the IWC orders, DLSE has out of necessity come to rely upon the federal regulations, and federal case law, which define the terms "executive", "administrative" and "professional" for purposes of the exemptions, to the extent that these federal definitions are not inconsistent with state law. We do not know yet whether the IWC will decide whether to adopt specific definitions for these terms. Absent the adoption of such definitions, we will continue to follow existing DLSE interpretations, as set out in our opinion letters, of these terms. (See, for example, opinion letters dated 1/7/93 and 10/5/98.)

Meal Period Requirements: Section 6 of AB 60 adds section 512 to the Labor Code, which codifies the requirements for meal periods during the workday. These provisions are somewhat confusing, and there have been many questions as to whether AB 60 puts an end to "on-duty meal periods." That term is used in the IWC orders to describe a meal period during which the employee is not relieved of all duty regardless of the length of time of the meal period, or that is less than 30 minutes long regardless of whether the employee is relieved of all duty. Under the IWC orders, an "on-duty meal period" is permitted only (1) when the nature of the work prevents the employee from being relieved of all duty, and (2) when the employee and employer have entered into a written agreement permitting an on-duty meal period. An employee must be paid for the entire on-duty meal period; that is, it constitutes time worked.

We believe that AB 60 does not prohibit "on-duty meal periods". Had the Legislature intended to accomplish that, the bill would have expressly done so. Instead, the term "on-duty meal period" is not found anywhere in the text of AB 60. Section 512 provides that a meal period of no less than 30 minutes must be provided to any employee who is employed for a work period of more than five hours per day. However, this meal period can be waived by mutual consent of the employee and the employer if the total daily work period does not exceed six hours. A second meal period of no less than 30 minutes must be provided to any employee who is employed for a work period of more than 10 hours in a day, however, this second meal period can be waived by mutual consent if the worker does not work more than 12 hours that day, and if the first meal period was not waived. Of course, since the first meal period cannot be waived if there were more than 6 work hours in a day, it would seem that no employee working more than 10 hours in a day could have waived the first meal period. In any event, whenever a worker is employed for more than 12 hours in a day, the second meal period cannot be waived.

The confusion over whether AB 60 ends "on-duty meal periods" stems from a misunderstanding of the term "meal period" and the meaning of the provisions that limit the ability to mutually agree to a waiver of the meal period. The term "meal period" includes both the on-duty paid and off-duty unpaid variety. If the prerequisites (as defined in the IWC orders) for an on-duty meal period are met, then an on-duty meal period may be established. Even though the employee is required to work during the on-duty meal period, the employee must be given the opportunity, while working if necessary, to eat his or her meal. That is what cannot be waived, if the work period exceeds six hours, and if an on-duty meal period has been properly established. On the other hand, if the prerequisites for an on-duty meal period have not been met, the limits on waiver of the meal period apply to the employee's right to take an off-duty meal period.

The IWC will continue to have an important role in defining meal period requirements, as section 10 of AB 60 adds section 516 to the Labor Code, which provides that notwithstanding any other provision of law, the IWC may adopt or amend regulations regarding meal periods, break periods, and days of rest.

Day of Rest Requirement: AB 60 does not amend existing Labor Code sections 551 and 552, which provide that every employee is entitled to one day's rest in seven, and that no employer shall cause its employees to work more than six days in seven.

Section 12 of AB 60 makes some minor changes to Labor Code §554, which, among other things, permits an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, providing that in each calendar month the employee receives days of rest equivalent to one day's

rest in seven. The most significant change to section 554 is that it now specifies that employees covered by IWC Order 14 (agricultural occupations) are not covered by this chapter of the Labor Code (starting with Labor Code §500), except for Labor Code section 558, so that employers of such employees will be subject to civil citations for violations of the overtime provisions of Order 14.

Section 13 of AB 60 makes some minor changes to Labor Code §556, which provides that sections 551 and 552, the sections which mandate one day's rest in seven, shall not apply to any employer or employee when the total hours of employment do not exceed 30 hours in a week or six hours in any one day of that week. We have been asked whether an employee who works such a part-time schedule would be entitled to seventh day premium pay, pursuant to section 510. The answer is yes, seventh day premium pay is required under section 510 if the worker works seven consecutive days in a workweek, regardless of the total number of hours worked during that workweek or during any of the days during that workweek. Section 556 does not exempt part-time workers from the requirements of seventh day premium pay.

Enforcement: As discussed earlier in this memo, section 14 of AB 60 adds section 558 to the Labor Code, which establishes a civil penalty citation system as a mechanism for enforcing the overtime provisions of both AB 60 and the IWC orders. The citation may include: 1) a civil penalty that is payable to the State (set for an initial violation, which we interpret as a first citation, at \$50 per employee per pay period for which the employee was underpaid; and for a subsequent violation, at \$100 per employee per pay period in which the employee was underpaid), and 2) an additional amount representing the unpaid overtime wages owed to the employees, with any such wages that are recovered to be paid by DLSE to the affected employees. By allowing for inclusion of unpaid wages as a component of the amount assessed, overtime citations differ from minimum wage civil penalty citations under Labor Code §1197.1, which do not include an unpaid wage component. This unpaid overtime wage component of the assessment provides DLSE with a significant enforcement mechanism, and a means of expeditiously pursuing the collection of unpaid overtime wages.

Employer Appeal Rights: Section 558(b) provides that the procedures for issuing, contesting and enforcing judgments for civil penalty citations for overtime violations shall be the same as the procedures governing minimum wage citations under Labor Code §1197.1. Thus, an employer will have 15 business days from the date the citation is issued to request an appeal hearing. The hearing must then be held within 30 days of a timely request. The decision of the Labor Commissioner's hearing officer, either affirming, dismissing or modifying the proposed assessment, must be served on the parties within 15 days of the conclusion of the hearing. The employer then has 45 days from the date the decision is served to file a petition for a writ of administrative mandate. If no writ petition is timely filed, then the Labor Commissioner's decision becomes due and payable, and is entered as a clerk's judgement. If a writ petition is filed, the court will review the administrative record to determine whether the evidence presented at the hearing before the Labor Commissioner supports the findings and whether the Labor Commissioner's decision correctly applies the law. Since court review is by way of writ, rather than de novo trial, it is critical to present the necessary evidence at the administrative hearing to establish an adequate administrative record.

Of course, the civil penalty provision of section 558 is not the only means available to DLSE for enforcing a worker's right to overtime compensation. DLSE can still prosecute overtime violations as it has in the past, by filing a civil action pursuant to Labor Code §1193.6. DLSE also can, of course, continue to adjudicate individual employee wage claims through the section 98 Berman hearing process.

We have received several inquiries as to whether "willfulness" is a required element for the issuance of a civil penalty for overtime violations. The answer is no, there is no requirement of "willful" underpayments. The word "willful" or "intentional" does not appear in section 558. Had the Legislature intended to make "willfulness" a requirement, they would have done so expressly, as in Labor Code section 203. It is therefore our conclusion that purported absence of willfulness is not a defense to the imposition of penalties under section 558.

We have also been asked whether meal period violations will be subject to civil penalty citations under section 558. At first blush, the statute authorizes the issuance of a citation for a violation of "a section of this chapter or any provision regulating hours and days of work in any [IWC] order," so that violations of the meal period requirements of section 512 would appear to be subject to civil penalty citations. But the manner in which civil penalties are calculated -- \$50 or \$100 per underpaid employee per pay period in which the employee was underpaid, plus the amount of the underpaid wages -- makes it clear that a violation of meal period requirements will not result in the imposition of a civil penalty under section 558, unless the meal period violation is coupled with a failure to pay the employee for the time worked during the unlawfully deprived meal period. In other words, as long as the employee was paid at the appropriate regular or overtime rate for the time worked during what should have been his or her meal period, the employer is not subject to a penalty. However, if an employee is not given a meal period as required by section 512, and is not paid for such time worked (either at the regular rate or at the overtime rate, whatever may be required), a penalty citation may be issued in accordance with section 558.

We have also received inquiries as to whether penalties will be assessed against an employer's payroll clerk, payroll supervisor, or a payroll processing service for failure to issue checks that contain required overtime compensation. This question is prompted by the expansive language of section 558, which makes "any employer or other person acting on behalf of an employer" subject to a penalty citation. Regardless of the expansive sweep of this language, DLSE does not intend to issue penalty citations to any individual persons who do not formulate policies that lead to non-payment of required overtime compensation. In general, penalties will be issued against the legal entity that is the employer. To the extent that DLSE may, on appropriate occasions, decide to go beyond this legal entity in imposing liability, we would not anticipate going beyond the definition of employer found in each of the IWC orders. That definition includes any person "who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person." Thus, in appropriate instances, corporate officers or managers may be included as defendants in a penalty citation pursuant to section 558.

Labor Code section 553, which was not amended by AB 60, offers another method of enforcing AB 60's provisions. Section 553 provides that "any person who violates this chapter," which now includes the overtime provisions of AB 60, "is guilty of a misdemeanor."

Special Industries: Existing provisions of the Labor Code contain special workday or workweek requirements or exemptions relating to employees of ski establishments (section 1182.2), commercial fishing boats (section 1182.3), licensed hospitals (section 1182.9), and stable employees engaged in the raising, feeding or training of racehorses (section 1182.10). Sections 16 to 19 of AB 60 amends these statutes to provide for their repeal effective July 1, 2000, unless the Legislature enacts a statute prior to that date extending these special provisions. Of course, the IWC may choose to maintain, or modify, the exemptions for these industries pursuant to Labor Code section 515(b).

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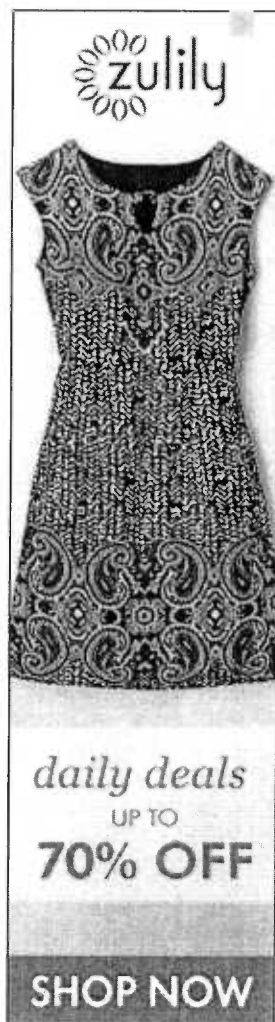
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Syllabification: an·y·one

RJN 227

Pronunciation: /'enē,wən/

Definition of *anyone* in English:

pronoun

1 [usually with negative or in questions] Any person or people: *there wasn't anyone there* *does anyone remember him?* *I was afraid to tell anyone*

More example sentences

- If anyone remembers him or knew him, I would be very glad to hear from you as soon as possible.
- If anyone has this piece, or remembers it better than me, feel free to put me right on this one.
- My only hope is I can scrape through Christmas unscathed and not upset anyone too much.
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1.1 [without negative] Used for emphasis: *anyone could do it*

More example sentences

- It is a shame it has to come to that before anyone realises how dangerous this road is.
- Suffice it to say that Waugh might have trouble getting anyone to print his story today.
- The danger now is that anyone who wants to change society will run a mile from active politics.
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2A person of importance or authority: *they are read by anyone who's anyone*

More example sentences

- Anyone who's anyone in the industry will be there!
- Over the years, anyone who's anyone in the game has dropped by to play a round or two in the city.

Usage

Any one is not the same as **anyone**, and the two forms should not be used interchangeably. **Any one**, meaning 'any single (person or thing),' is written as two words to emphasize singularity: *any one of us could do the job*; *not more than ten new members are chosen in any one year*. Otherwise it is written as one word: *anyone who wants to come is welcome*. Note that this distinction is structurally similar to, although not identical with, the difference between *every day* and *everyday*: see [everyday \(usage\)](#).

Phrases

be anyone's

1

informal (Of a person) be open to sexual advances from anyone: *three drinks and he's anyone's*

More example sentences

- I can drink most anything else, but three pints and I'm anyone's.
- Give me a sandwich, a large vodka and non-stop football and I'm anyone's.
- Put a woman with half a brain and a wallet of her own into the picture and superimpose the word "Independence" over the top and I'm anyone's.
- [Get more examples](#)

anyone's game

2

An evenly balanced contest: *it was still anyone's game at halftime*

More example sentences

- I think it is still anyone's game for the taking.
- I think it could be anyone's game, especially with the pitch being like it is.
- In the last five minutes, at 0-20 to 2-14, it was still anyone's game.
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anyone's guess

3

see [guess](#).

Words that rhyme with anyone

everyone • someone

Definition of anyone in:

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- the world

1. thingummy
2. elevation
3. feminism
4. brain fart
5. bants

Most popular in Canada

- Australia
- Canada
- India
- Malaysia
- Pakistan
- Spain
- the UK
- the US
- the world

1. hangry
2. cheffy
3. cakeage
4. awesomesauce
5. beer o'clock

Most popular in Australia

- Australia
- Canada
- India
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- Pakistan
- Spain
- the UK
- the US
- the world

1. wine o'clock
2. Australia
3. racism
4. Que.
5. practice

Most popular in Spain

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- Canada
- India
- Malaysia
- Pakistan
- Spain
- the UK
- the US
- the world

1. Sassenach
2. retrospect
3. time
4. traductor
5. transcripción fonética

Most popular in Malaysia

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- India
- Malaysia
- Pakistan
- Spain
- the UK
- the US
- the world

1. mull
2. mkay
3. locus standi
4. rakyat
5. butthurt

Most popular in India

- Australia
- Canada
- India
- Malaysia
- Pakistan
- Spain
- the UK
- the US
- the world

1. India
2. Raksha Bandhan
3. rakhi
4. swag
5. phantom

Most popular in Pakistan

- Australia
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