

ENGROSSMENT*



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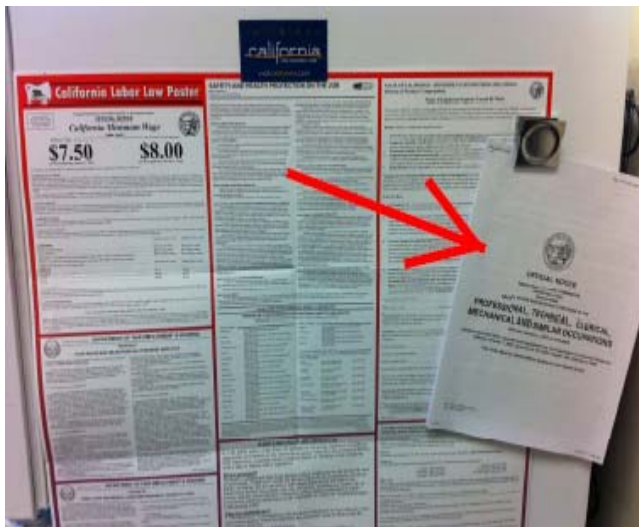
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INDUSTRIAL WELFARE COMMISSION WAGE ORDERS

For over 20 years, Legislative Intent Service has been researching California Wage Orders. Our massive, in-house collection includes thousands of pages of minutes, transcripts, correspondence and other rulemaking documents regarding wage order provisions, many of which predate World War II or were enacted shortly thereafter.

WHAT IS A WAGE ORDER?

If you're reading this in California, you've probably seen it: the "official notice" in your break room with the state seal. Unless you practice labor and employment law, you probably haven't given this 10-12 page document (or large poster) a second thought.



Wage Order No. 4 in the LIS break room

Regardless of your area of practice, these Industrial Welfare Commission (IWC) **wage orders** are relevant because they govern the wages, hours and working conditions for each specific industry in California. The California Supreme Court recently provided guidance on the rest and meal periods of Wage Order No. 5 in *Brinker Restaurant Corp. v. Superior Court (Hohnbaum)*.ⁱ

IWC HISTORY

The Industrial Welfare Commission (IWC) was established by the Legislature in 1913 to:

... ascertain the wages paid, the hours and conditions of labor and employment in the various occupations, trades and industries in which women and minors are employed in the State of California; and to make investigations into the comfort, health, safety and welfare of such women and minors.ⁱⁱ

Shortly thereafter, the IWC adopted its first two wage orders in 1916 to regulate the Fruit and Vegetable Canning Industry.ⁱⁱⁱ These first orders included detailed requirements for on-site restrooms (including the requirement for "an adequate supply of toilet paper ... in every water closet compartment") and for "at least one hour for noon day meal..."^{iv}

For the next 20 years, the IWC adopted various orders in response to internal or public input of needs for revision. According to the Department of Industrial Relations Biennial Report for 1939 to 1940:

The Orders which the Division enforces are based upon a scientific cost of living study – the last scientific study having been made in 1922, at which time the sum of \$16.00 a week was arrived at as a basis of meeting the expenditures of an independent, self-supporting worker, which would supply her the necessary cost of proper living and maintain her health and welfare.^v

In this same biennial report, shortly before the United States entered World War II, the Director of the Department of Industrial Relations outlined the major changes to the "industrial picture:"

The world conflict and social developments of recent months have had a marked influence

on the California Department of Industrial Relations ... As the 1939—1940 biennium comes to a close two phases of the industrial picture have affected the activities of this department to a great extent.

One is presented in the tremendous increase of employment resulting from the national defense program. That increase is being felt from the great airplanes factories of the southern part of the State to the forests and mines of the north, leaving no section and practically no industry unchanged.

The other phase is presented by the hundreds of thousands of workers who are continuing their former positions under their former conditions of employment.^{vi}

The IWC proceeded to spend the next few years drafting a “New Series” of orders. At the close of the biennium, June 30, 1944, the following orders^{vii} were in effect:

- Order No. 1 NS, Manufacturing Industry
- Order No. 2 NS, Personal Service Industry
- Order No. 3 NS, Canning and Preserving Industries
- Order No. 4 NS, Professional, Technical, Clerical and Similar Occupations
- Order No. 5 NS, Public Housekeeping Industry
- Order No. 6 NS, Laundry, Dyeing, and Dry-Cleaning Industry
- Order No. 7 NS, Mercantile Industry
- Order No. 8 NS, Industries Handling Farm Products After Harvest
- Order no. 9 NS, Transportation Industries
- Order No. 10 NS, Amusement and Recreation Industries
- Order No. 16-A, Motion Picture Industry
- Order No. 17, Motion Picture Industry
- Order No. 18, Sanitary Regulations for Any Occupation, Trade or Industry

Following World War II, the IWC again undertook a massive revision of its orders to confront issues raised by veterans returning to the work force.

TODAY

In addition to the 10 Industries listed above, an additional eight orders are in effect:

- Wage Order No. 11: Broadcasting Industry
- Wage Order No. 12: Motion Picture Industry
- Wage Order No. 13: Industries Preparing Agricultural Products for Market, on the Farm
- Wage Order No. 14: Agricultural Occupations
- Wage Order No. 15: Household Occupations
- Wage Order No. 16: Certain On-Site Occupations in the Construction, Drilling, Logging and Mining Industries
- Wage Order No. 17: Miscellaneous Employees

Lastly, there is a Minimum Wage Order, which outlines the current statewide minimum wage.

The provisions of the different wage orders approved by the Industrial Welfare Commission are codified in Title 8 of the California Code of Regulations, commencing with section 11000.

Stay tuned for future issues of the Engrossment to cover additional wage order trends, including:

- The legal battle that led to the 1976 orders applying to men for the first time
- The 1998 revision that eliminated daily overtime from several orders
- Assembly Bill 60 of 1999 and the restoration of daily overtime

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ⁱ *Brinker Restaurant Corp. v. Superior Court*, April 12, 2012, Slip Opn. Pages 18 and 19.

ⁱⁱ Chapter 324, Statutes of 1913, §3.

ⁱⁱⁱ Minutes of the Industrial Welfare Commission of the State of California, February 29, 1916.

^{iv} *Supra*, page 6.

^v State of California Department of Industrial Relations, Biennial Report 1939--1940, page 33.

^{vi} *Supra*, page A.

^{vii} State of California Department of Industrial Relations, Biennial Report 1942-1944, page 11.