

January 2, 2015

Requiring Employees to Furnish Tools: Paying Double the minimum Wage

Due to recent increases in the minimum wage and new legislation being introduced in the state to further raise the minimum wage, questions have been posed by members regarding the laws governing employee technicians who provide their own tools at work.

In California, employers (including automotive repair shops) supply employees all the tools and equipment necessary to perform the job. Furthermore, if an employer requires the employee to furnish tools, the employer must pay employee at least double the minimum wage

The law (Wage Order 9) states in pertinent part as follows:

(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.

ASCCA, Government Affairs Committee created a subcommittee of members Craig Johnson, Gene Morrill, Tracy Renee, Mary Kemnitz, Gloria Peterson and Jack Molodanof to seek clarification and guidance on this section for its membership. The Subcommittee contacted the Governor's Office and the Department of Industrial Relations for assistance. The subcommittee posed several questions to the Department regarding Wage Order 9.

The Department confirmed that: If an employer "requires" an employee to supply his/her own tools the employer must pay the employee at least double the minimum wage. The key is if the employer's "conditions of employment" require the employee to furnish his/her own tools and/or equipment, then Wage Order 9 applies and the employer must pay at least double the minimum wage.

What if an employer supplies all the tools/equipment necessary to perform the job but their employee chooses to bring in their own tools?

The Department indicated that in this case, paying double the minimum wage was not required under the law because the employer did not make (require) furnishing tools a condition of their employment.

The Department further indicated that it is considered a "best practice" to have the employee sign an acknowledgment that he/she understands that all tools and equipment required to do the job shall be provided and maintained by the employer. If the employee chooses, of their own free will, to use their own tools and/or equipment that is not a violation of Wage Order 9. If the employer requires the employee to furnish tools and/or equipment the employer will pay employee at least double the minimum wage. The Department also indicated that listing the tools and/or equipment would be a good idea too.

The bottom line is if you are requiring your employees to furnish their own tools and/or equipment you must pay them at least double the minimum wage or you could be subject to fines/penalties. If you supply your employees with the necessary tools and equipment to perform their job and the employee chooses to bring in their own tools and/or equipment, have them sign a written acknowledgment to that effect.

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For more information please contact ASCCA.