



New York State Department of Labor
David A. Paterson, Governor
Colleen C. Gardner, Commissioner

March 11, 2010



Re: Request for Opinion
Labor Law §195(1)
RO-09-0160

Dear [REDACTED]:

This letter is written in response to your facsimile of November 10, 2009 in which you provide a copy of the Notice and Acknowledgement form your company plans on using to satisfy the requirements of Section 195(1) of the Labor Law. Your facsimile asks whether your company may properly use the form supplied in place of the form posted online at the Department of Labor's website.

Section 195(1) of the Labor Law, which was recently amended [effective October 26, 2009] now reads:

Every employer shall *** 1. notify his or her employees, in writing, at the time of hiring of the rate of pay and of the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article, and obtain a written acknowledgement from each employee of receipt of this notice. Such acknowledgement shall conform to any requirements established by the commissioner with regard to content and form. For all employees who are eligible for overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by law or regulation, the notice must state the regular hourly rate and overtime rate of pay.

By way of background, while the Department developed the standardized forms found on its website to assist employers in meeting the requirements of Section 195(1) as recently

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amended, based upon feedback received from a number of employer representatives, it has been determined that the Department's forms will serve as samples or models for the satisfaction of employers' obligations under Section 195(1). Additional forms, as well as guidelines for their use, will be posted on the Department's website in the coming weeks. An employer's use of the appropriate form developed by the Department in accordance with the accompanying guidelines, while not required, is strongly encouraged as it will, in the opinion of this Department, ensure full compliance with their obligations under Section 195(1). Furthermore, while the use of official forms is, at this time, not required, the Department reserves its right to require employers to use forms developed by the Department should it become apparent that the notice being used by employers is falling short of the requirements of the statute.

Since the materials provided by you, assuming they will be completely filled out at the time in which the employee receives and acknowledges receipt of them, satisfy all of the requirements of Section 195(1) as recently amended, it is the opinion of this Department that the company may properly use the materials provided in satisfaction of its requirements under Section 195(1) of the Labor Law.

This opinion is based on the information provided in your letter of November 10, 2009. A different opinion might result if the circumstances outlined in your letter change, if the facts provided were not accurate, or if any other relevant fact was not provided. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel

By: 

Jeffrey G. Shapiro
Associate Attorney

JGS:mp

cc: Carmine Ruberto

Enclosure: Original Facsimile Documents