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### **New Agricultural Worker Overtime Provisions Signed Into Law**

On September 12, 2016, Governor Jerry Brown signed Assembly Bill 1066 into law, changing the overtime provisions for agricultural workers working under Wage Order 14. The new overtime rules, which will be implemented incrementally over four years beginning in 2019 for most employers, drastically change the status quo for the agricultural industry by shifting agricultural workers from a standard 10-hour workday, 60-hour workweek, to the 8-hour workday, 40 hour workweek used by most other industries in California. The highly contested legislation, which changes the overtime provisions for agricultural workers for the first time in 40 years, was sponsored by the United Farm Workers of America and came to Governor Brown's desk after similar legislation had failed several times in recent years.

Currently, the overtime provisions for agricultural workers' under Wage Order 14 call for overtime pay of time and a half the employee's normal rate of pay for hours worked in excess of 10 hours in a day, 60 hours in a week, for the first eight hours of work on the seventh day of work in the workweek, and double time pay for hours worked in excess of eight hours on the seventh day of the workweek. Under the new provisions, agricultural workers will be entitled to overtime pay of time and a half their normal rate for hours worked in excess of eight (8) hours in a day and 40 hours in a week, and will be entitled to double time pay for hours worked in excess of 12 hours in a day.

The new rules will take hold beginning in 2019 for agricultural employers who employ 25 employees or more and 2022 for agricultural employers with fewer than 25 employees. The overtime provisions will change incrementally over 4 years. Beginning in 2019, agricultural employees will be entitled to overtime compensation for hours worked in excess of 9.5 hours in a day and 55 hours in a week, 9 hours in a day and 50 hours in a week in 2020, 8.5 hours in a day and 45 hours in a week in 2021, and 8 hours in a day 40 hours in a week in 2022. The implementation for smaller farmers with less than 25 employees will be deferred for three years, with the first phase beginning in 2022 and continuing until 2025. The Department of Industrial Relations will update Wage Order 14 to reflect the new legislation.

#### **What This Means for Employers:**

The new overtime law will require nearly all California agricultural employers to change the way they pay their agricultural workers. Employers must prepare to update their payroll systems to incorporate the shift in overtime calculation when the provisions begin for most employers in 2019. Many employers have already begun to explore options on how to work with the new legislation to lessen the impact to their ongoing business.

*The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 or toll-free at (888) 322-2573, for individual responses to questions or concerns regarding any given situation.*