



ANDREW M. CUOMO
Attorney General

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
Civil Rights Bureau
Labor Bureau

August 31, 2009

[Name]
[Address]

Re: Compliance with State Labor and Civil Rights Laws

Dear Sir or Madam:

Today Attorney General Andrew Cuomo announced a settlement with a traveling carnival operator for alleged violations of New York State laws.

The Attorney General's investigation found that the company in question failed to pay prevailing and minimum wages and overtime to its guest workers; failed to maintain proper payroll records and to issue its workers proper pay stubs; failed to provide safe and sanitary housing; and subjected its workforce to differential treatment because of race, citizenship, and national origin.

Please review this letter and take the necessary steps to educate yourself about the law to ensure that your business does not violate these or other important New York laws.

Labor Law

New York Labor Law requires employers to pay their workers at least a minimum wage of \$7.25 per hour and at least 1½ times their workers' regular wage rate when workers work over 40 hours in a single work week. See, e.g., Article 6 (Payment of Wages), §§ 190 *et seq.*; Article 19 (Minimum Wage Act), §§ 650, *et seq.*; 12 N.Y.C.R.R. § 142-2.1. Even if employers may be exempt from paying their workers overtime at the regular rate under state and federal laws, employers must still pay 1 ½ of the state minimum wage to their workers when they work over 40 hours in a single work week. See, e.g., 12 N.Y.C.R.R. § 142-2.2.

New York labor regulations also require employers to pay certain employees an additional \$7.25 each day that those employees work 10 hours or more, see 12 N.Y.C.R.R. § 142-2.18; to keep records of employees' actual hours worked in each week, see New York Labor Law § 661, 12 N.Y.C.R.R. § 142-2.6; to furnish statements with pay and hour information to their employees, see 12 N.Y.C.R.R. § 142-2.7; and to post a notice summarizing employees' rights in a conspicuous place at the workplace, see 12 N.Y.C.R.R. § 142-2.8.

Civil Rights Law

New York's state and municipal laws require that employers who operate in the state refrain from treating their employees differently because of any protected classification, including sex, race, national origin, citizenship, color, disability, age, sexual orientation or familial status, or other protected bases. See the New York State Human Rights Law, Executive Law §§ 290 et seq.; the New York City Human Rights Law, New York Administrative Code §§ 8-101 et seq.

State Sanitary Code

Employers who furnish housing to employees in work camps, including in trailers and other vehicles, must provide sanitary housing to their workers, including designating a person in charge of maintaining the housing for employees and the posting of that information in a conspicuous place, see 10 N.Y.C.R.R. § 7-3.4, controlling insect and rodent infestations in employees' housing, see 10 N.Y.C.R.R. § 7-3.18, maintaining showers in a sanitary condition, see 10 N.Y.C.R.R. § 7-3.16, and providing safe housing conditions to employees. See New York Real Property Law § 235-b(1).

Further, please be advised that the statutory obligations listed above are non-exclusive. Employers in the traveling carnival industry have other legal obligations to their employees, including but not limited to providing a safe workplace with appropriate hand and footwear, and securing harnesses when employees are working from heights.

Compliance with the laws described above is critical for employers doing business in this State. Failure to comply will result in an investigation and/or legal action. Therefore, we urge you to promptly review your company's practices to ensure that you are doing business in accordance with New York State law. If you have any questions, please do not hesitate to contact our office at 212-416-8700 or 212-416-8250.

Very truly yours,

Alphonso B. David
Bureau Chief
Civil Rights Bureau

Patricia Kakalec
Deputy Bureau Chief
Labor Bureau