This is the first supplement to the second edition of the treatise detailing on a state-by-state basis the wage and hour laws in the 50 states, the District of Columbia, and Puerto Rico. This supplement includes a new section for most states entitled “Did You Know?,” which identifies an area of the law unique to that state about which it is important for attorneys to be aware.

The states continue to be where the action is with respect to wage actions as many hybrid Fair Labor Standards Act (FLSA) state law claims continue to be filed in federal court. In addition, the states continue to be where workers can enforce the failure of employers to provide a last paycheck, a problem in a difficult economy.

**Organization and Content**

The organization of this supplement is different from the treatise *The Fair Labor Standards Act*, in that there are in this title comprehensive descriptions of new cases and laws, as well as an attempt to identify legislative trends in the states. Only those sections of the material covered by the outline that reflect cases or statutory changes are included.

The supplement is supplementing the treatise itself, which provides a thorough and complete analysis of the individual wage and hour laws, wage payment laws, and common law wage actions that are used throughout the nation. It covers all 50 states as well as Puerto Rico and the District of Columbia. This book addresses the following wage and hour issues arising under state law:

- Minimum wage and overtime laws;
- Timing, place, and manner of payments to employees;
• Mandatory payments in addition to overtime, such as shift differentials and reimbursement for tools and uniforms;
• Prohibitions on hours worked and mandatory leave, such as required rest and meal breaks;
• Child labor;
• Recordkeeping/posting requirements;
• Occupations with special rules, such as public safety;
• Common law theories to recover unpaid wages, defenses, and remedies;
• Enforcement and remedies of workers’ statutory protections, including injunctions, and private and state enforcement actions; and
• Special litigation issues, such as the availability of Rule 23 class actions, double or treble damages, and attorneys’ fees and costs.

The uniform outline for the chapters is set forth after this Preface, and each chapter begins with a detailed table of contents that allows readers to quickly go to the specific topic they wish to research.

As in years past, this annual supplement will continue to be updated. Next year, we will provide a chart to address which states provide for class actions under the areas covered by the book. If readers become aware of an area that they believe would fit in well with the book, please let me know so that we can explore adding the idea to the book.

**Period Covered by This Volume**

This supplement is current through December 31, 2011. A yearly supplement will be issued to cover new state wage and hour laws, regulations, and court decisions. Readers who are interested in assisting with the supplement should contact me.
Contributors

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Gregory K. McGillivary
Editor-in-Chief

Washington, D.C.
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OUTLINE OF TOPICS

The analysis of wage and hour law in each jurisdiction follows the general structure outlined below. The detailed discussion of the law in each chapter varies at the lower levels of topic heads, however, because of variations in each jurisdiction’s law. Each chapter begins with a detailed table of contents to assist readers in getting an overview of the structure of the chapter and to help them quickly locate the exact section they wish to turn to.

The following topics are not covered in this treatise: Equal Pay Act laws, prevailing wage laws, and garnishment.

I. OVERVIEW OF STATE LAW AND REGULATION

II. OPERATIONS AND FUNCTIONS OF STATE ADMINISTRATIVE AGENCY

A. Overview
B. Investigatory Function
C. Exhaustion Requirements
D. Administrative Wage Orders
E. Adjudication

III. MINIMUM WAGE AND OVERTIME LAWS

A. Coverage
   1. Definition of Employee
   2. Definition of Employer
   3. Independent Contractor
B. Minimum Wage
   1. Minimum Wage Rate
   2. Credits/Offsets Against the Minimum Wage
      a. Tip Credit
      b. Meals and Lodging
   3. Payments for Uniforms and Tools
C. Overtime Pay
   1. Payment Based on Workweek or Workday
   2. Calculation of the Rate at Which Overtime is Paid
      a. Hourly Employees
      b. Salaried Employees
      c. Employees Paid on Commission
      d. Employees Paid at Two or More Rates
D. Exemptions
   1. General Overview of Exemptions
a. FLSA Exemptions Adopted
b. Primary Duty Test
c. Salary Basis Test
2. Administrative Exemption
3. Professional Exemption
4. Executive Exemption
5. Computer Professional Exemption Test
6. Agricultural Exemption
7. Motor Carrier Exemption
8. Outside Sales Exemption
9. Other Exemptions

E. Calculation of Hours Worked
   1. On-Call Time
   2. Meal Periods/Rest Periods
   3. Preliminary/Postliminary Work
   4. Travel Time
   5. Other Work Time Issues

IV. Timing, Place, and Manner of Payments

A. Designated Paydays
B. Payments to Hourly and Salaried Employees
C. Payments Employees Paid on Commission
D. Payments to Deceased Employees
E. Payments to Separated Employees
   1. Timing of Final Payment
   2. Final Compensation and Expense Reimbursement
F. Prohibitions Against Deductions or Refunds to the Employer

V. Payments and Leave in Addition to Minimum Wage and Overtime

A. Working on Holidays and Sundays
B. Reimbursement for Uniforms or Tools
C. Mandatory Paid Leave
D. Other Mandatory Payments

VI. Prohibitions on Hours Worked

VII. Occupations With Special Rules

A. Homework
B. Public Sector Employment
C. Other Occupations
VIII. Child Labor

A. Coverage
B. Children Under 14 Years of Age
C. Children Under 16 years of Age
D. Children Under 18 years of Age
E. Work Permits

IX. Recordkeeping, Posting, and Notice Requirements

A. Recordkeeping
B. Posting and Notice Requirements

X. Enforcement and Remedies

A. Administrative Enforcement
B. Private Enforcement
C. Criminal and Civil Penalties
D. Injunctions
E. Other Enforcement and Remedies Issues

XI. Common Law Causes of Action

A. Types of Actions
B. Defenses
C. Damages and Remedies

XII. Retaliation

XIII. Special Litigation Issues

A. Statutes of Limitations
B. State Law Class and Collective Actions
C. Double, Treble or Other Additional Damages
D. Attorneys’ Fees
E. Other Defenses
F. Other Special Issues