

DOL Adds Smartphone Technology to Its Enforcement Arsenal

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Under the Obama administration, the U.S. Department of Labor (“DOL”) has implemented a number of initiatives in support of its enforcement of federal wage and hour laws and its mission of making employers more accountable for compliance with these laws. These include the “We Can Help” and “Bridge to Justice” initiatives.

On May 9, 2011, the DOL launched a free application for smartphones. This new “app,” called “[DOL-Timesheet](#),” provides non-exempt employees with an electronic timesheet that allows them to independently record the hours they work and determine the amount of wages owed. The new application is available in both English and Spanish, and it allows users to track regular work hours, break time, and overtime hours for themselves and/or co-workers. The DOL intends to explore other applications that would allow employees to independently track tips, commissions, bonuses, deductions, holiday pay, pay for weekends, shift differentials, and pay for regular days of rest.

The DOL believes that this new technology will become a significant tool for employees, allowing them to keep their own records instead of relying on their employers’ records. Additionally, the DOL envisions that these employee records may prove “invaluable” during investigations in cases where an employer has not maintained accurate employment records.

The free app is currently compatible with the iPhone and iPod Touch, but the feature may be expanded to other smartphone platforms, such as Android and BlackBerry. For workers without a smartphone, the DOL has designed a printable [work hours calendar](#) in English and Spanish that allows employees to record their hours worked, breaks, and rates of pay. The calendar also includes information about workers’ rights and how to file a wage violation complaint.

What Employers Should Do Now

Under the Fair Labor Standards Act, employers bear the burden of maintaining accurate records. Where employers fail to do so, the DOL will accord a presumption of accuracy to any records that their employees produce. The DOL has not yet indicated how it will deal with situations in which an employer maintains records that appear to be accurate but are in conflict with an employee’s own records. However, it is quite possible that the DOL will look for ways to disregard employer records if there appear to be any defects, inaccuracies, or gaps in the manner in which the employer maintains its records. As the

DOL continues to use the latest technology to assist both the DOL and employees in the enforcement of federal wage and hour laws, it is imperative that employers develop, implement, and rigorously enforce their timekeeping and reporting policies to ensure that they have accurate time, attendance, and payroll records for all employees, especially non-exempt employees.

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