

THERE'S AN APP FOR THAT!
DEPARTMENT OF LABOR ENCOURAGES EMPLOYEES
TO TRACK HOURS WORKED VIA MOBILE PHONE APP

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The U.S. Department of Labor (DOL) recently announced the launch of its first application for mobile phones, "DOL-Timesheet", that allows employees to track the hours they work and calculate estimated wages owed. The app is free and enables employees to track regular hours, break time and overtime, and even provides a direct link to contact DOL. Employees can add comments to time entries, view a summary of work hours in daily, weekly and monthly format, and email the summary of work hours and gross pay as an attachment. The app is currently only compatible with the iPhone and iPod Touch but it may be compatible with other smartphones in the future.

To begin calculating work hours, the employee hits a "Start Work" button which starts a timer. The employee then has the option of hitting "Stop Work" or "Start Break." If the employee selects "Start Break", he or she is prompted to select "Meal" or "Other." The employee also has the ability to enter comments about the break, and can select "Stop Break" when returning to work. When the employee selects "Stop Work", a summary screen displays the start, stop and break times, hourly rate, total hours worked and comments. The employee can also click on a summary sheet that displays gross pay as calculated by the app.

Although the app is programmed to calculate gross pay in accordance with the federal Fair Labor Standards Act (FLSA), in almost all cases it is impossible for the app to calculate gross pay with 100% accuracy. The app initially asks the employee to enter his or her hourly rate and to select the work week start day. The app is programmed to calculate hours worked in excess of forty per work week at one and a half times the rate of regular pay. However, an informational screen disclaims absolute reliance on the gross wage calculation, stating that the app is designed as a "reference" tool for employees, and that it does not include every possible situation encountered in the workplace such as shift differentials, bonuses, commissions, tips, etc. That point cannot be overstated because the app currently has no way to factor in items such as longevity payments, non-discretionary bonuses, shift differentials, and uniform allowances, all of which the employer may need to factor into overtime pay. The app also currently has no way to calculate overtime pay for employees that may be subject to alternate overtime thresholds (other than forty hours per week) under the FLSA, such as law enforcement and firefighters. Furthermore, the app deducts all break time from the total hours worked, even though the app reminds the user that rest periods of short duration, usually 20 minutes or less, are customarily paid for as working time. Lastly, the app currently has no way to include pay that may be provided for under a collective bargaining agreement but not under the FLSA, such as mandatory overtime for hours worked in excess of eight hours per day.

The launch of DOL-Timesheet is a compelling reminder to employers that their records should be the best accounts of compliance with the FLSA and the Pennsylvania Minimum Wage Law. Employers should communicate to employees and managers about the importance of accuracy in time records and require employees to report any hours-worked questions, disputes, or discrepancies immediately. Employees should verify the accuracy of their time records and supervisors should review, date and sign all time records. Corrections, including additions or subtractions in time reported by employees, should be documented when they occur and be reviewed by at least one other individual. Payroll records should also be reviewed to ensure the employee was paid for all time worked at the correct regular and overtime rates and that all deductions are legally compliant. Time records must generally be kept for at least three years and should include the day and time the employee's workweek starts, work hours for each day and workweek, hourly pay rates, additions to or deductions from the employee's pay, total wages for the payroll period, and the pay period dates and payment date.

Although DOL-Timesheet serves as a strong reminder about the importance of keeping accurate time records, the app is simply a new method for employees to track hours and wages—no different than a handwritten journal and a calculator. As in the past, employers should require employees to verify that they have documented all work performed in the employer's time record. Supervisors should also be reminded that approval of a time record that they know does not accurately reflect hours worked is a violation of the FLSA.