

Overtime Due for Shepherders per AB 1066

Currently shepherders are due overtime per recently passed California Labor Code, statute AB 1066. The CA Dept. of Industrial Relations (DIR) has issued guidance on how to calculate an hourly overtime rate using the monthly salary amount. The following information demonstrates the phase-in schedule for overtime as well as the calculation method used by DIR under DIR current interpretation. The example provided by DIR is based on "large employers" with 26 or more employees. This information should not be considered legal or payroll advice. It is strongly recommended that employers contact the DIR as well as consult with accountants and/or lawyers as appropriate.

Phase-in Schedule:

	25 or less employees		26 or more employees	
	hrs/day	hrs/week	hrs/day	hrs/week
Jan. 1, 2019			9.5	55
Jan. 1, 2020			9	50
Jan. 1, 2021			8.5	45
Jan. 1, 2022	9.5	55	8	40
Jan. 1, 2023	9	50	8	40
Jan. 1, 2024	8.5	45	8	40
Jan. 1, 2025	8	40	8	40

The following wage amounts are based on DIR interpretation and the method demonstrated in DIR Guidance, 7/26/19. Minimum monthly wage amounts are estimated based on CA Labor Code 2695.2(a)(2) for years 2021 thru 2025 as the actual amounts have not been posted to date. Total monthly wage calculated includes estimate for "double time after 12 hours on any workday in 2022 and 2025 for large and small employers respectively.

Wage Estimates by year – Small Employers:

	25 or less employees			
	Min. Monthly Wage	OT Wage	7 th Day Wage	Total Monthly Wage
Jan. 1, 2019	\$1955.74			\$1955.74
Jan. 1, 2020	\$2133.52			\$2133.52
Jan. 1, 2021	\$2311.24			\$2311.24
Jan. 1, 2022	\$2489.03	\$718.56	\$237.05	\$3444.64
Jan. 1, 2023	\$2666.82	\$809.57	\$253.98	\$3730.37
Jan. 1, 2024	\$2666.82	\$849.25	\$253.98	\$3770.05
Jan. 1, 2025	\$2666.82	\$317.48	\$1396.90	\$4381.20

*estimates based on DIR Guidance 7/26/19

Wage Estimates by year – Large Employers:

	26 or more employees			
	Min. Monthly Wage	OT Wage	7 th Day Wage	Total Monthly Wage
Jan. 1, 2019	\$2133.52	\$615.93	\$203.19	\$2952.64
Jan. 1, 2020	\$2311.24	\$701.63	\$220.12	\$3232.99
Jan. 1, 2021	\$2489.03	\$792.64	\$237.05	\$3518.71
Jan. 1, 2022	\$2666.82	\$317.48	\$1396.90	\$4381.20
Jan. 1, 2023	\$2666.82	\$317.48	\$1396.90	\$4381.20
Jan. 1, 2024	\$2666.82	\$317.48	\$1396.90	\$4381.20
Jan. 1, 2025	\$2666.82	\$317.48	\$1396.90	\$4381.20

*estimates based on DIR Guidance 7/26/19

Calculate hourly wage rate for CA shepherders:

"...the method to arrive at the hourly rate is to divide the weekly wage by 168 hours (24x7)..."

Using the current monthly minimum wage rate of \$2,133.52 for an employer with 26 or more employees, we would multiply that amount by 12 to arrive at a yearly amount of \$25,602.24, and divide by 52 to arrive at a weekly amount of \$492.35 per week...

We would then divide the weekly wage by 168 hours to arrive at the regular hourly rate of pay, \$2.93 per hour." (DIR guidance, 7/26/19)

$$\begin{array}{r}
 24 \text{ Hours per day} \\
 \times 7 \text{ Days per week} \\
 \hline
 168 \text{ Hours per week} \\
 \\
 \$2133.52 \text{ Monthly wage} \\
 \times 12 \text{ Months per year} \\
 \hline
 \$25,602.24 \text{ Annual wage} \\
 \\
 \$25602.24 \text{ Annual Wage} \\
 \hline
 52 \text{ Weeks per year} = \$492.35 \text{ Weekly Wage} \\
 \\
 \$492.35 \text{ Weekly Wage} \\
 \hline
 168 \text{ Hours per week} = \$2.93 \text{ Hourly Wage}
 \end{array}$$

Calculate monthly OT rate for CA shepherders:

"...in order to provide the overtime premium, which is one and one-half times the regular rate of pay, we would then add one-half of the regular rate (half of \$2.93 is \$1.47) to each hour worked in excess of the overtime threshold, which is currently 55 hours per week for an employer with more than 25 employees. By subtracting 55 hours from the total weekly hours of 168, we arrive at

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113 hours for which overtime pay is required.” (DIR

$$\frac{\$2.93 \text{ Hourly wage}}{2} = \$1.47 \text{ Hourly OT rate}$$

guidance, 7/26/19)

$$\begin{array}{r} 168 \text{ Hours per week} \\ - 55 \text{ OT threshold, hours per week} \\ \hline 113 \text{ Hours OT earned per week} \end{array}$$

Calculate 7th day premium for CA shepherders:

“...Because shepherders working on a 24-hour schedule, seven days per week, would exceed the current overtime threshold of 55 hours before the seventh consecutive day of work, they will already be entitled to the half-time premium for the first eight hours on the seventh day, but they would also earn a double time premium (an additional \$2.93 over the compensated regular rate of pay or special minimum wage) for hours worked over eight on that day. Since there are 16 hours over eight on the seventh day of work, this equals a total of \$46.88 in double time pay (16 hours multiplied by \$2.93). The remaining hours in the week for which shepherders are owed the half time overtime premium is 97 (113-16). Ninety seven multiplied by \$1.47 is \$142.59.” (DIR guidance, 7/26/19)

$$\begin{array}{r} 24 \text{ Hours per day} \\ - 8 \text{ 7th Day OT hours} \\ \hline 16 \text{ 7th Day premium hours per week} \end{array}$$

$$\begin{array}{r} 16 \text{ 7th Day premium hours per week} \\ \times \$2.93 \text{ Hourly OT wage} \\ \hline \$46.88 \text{ Weekly 7th day premium due} \end{array}$$

$$\begin{array}{r} 113 \text{ Hours OT per week} \\ - 16 \text{ 7th Day hours per week} \\ \hline 97 \text{ Hours OT per week} \end{array}$$

$$\begin{array}{r} 97 \text{ Hours OT per week} \\ \times \$1.47 \text{ Hourly OT rate} \\ \hline \$142.59 \text{ Weekly OT due} \end{array}$$

“Therefore, the total weekly amount for overtime and double time premiums due a shepherd by a large shepherd employer in 2019 is \$189.47. This is in addition to the regular rate of pay or special minimum wage.” (DIR guidance, 7/26/19)

$$\begin{array}{r} \$46.88 \text{ Weekly 7th day premium due} \\ + \$142.59 \text{ Weekly OT due} \\ \hline \mathbf{\$189.47 \text{ Total weekly OT \ double time premiums}} \end{array}$$

Calculate Total Monthly wage for CA shepherders:

$$\begin{array}{r} \$492.35 \text{ Min. Weekly Wage} \\ \times \$189.47 \text{ Weekly OT \ double time} \\ \hline \$681.82 \text{ Total Weekly Wage} \end{array}$$

$$\begin{array}{r} \$681.82 \text{ Total Weekly Wage} \\ \times 52 \text{ Weeks per year} \\ \hline \$35454.64 \text{ Total Annual Wage} \end{array}$$

$$\begin{array}{r} \$35454.64 \text{ Total Annual Wage} \\ \div 12 \text{ Months per year} \\ \hline \mathbf{=\$2954.55} \\ \mathbf{\text{Monthly Total Wage}} \end{array}$$

Calculate “double time after 12 hrs” for CA shepherders:

“(In addition, shepherders will be entitled to double time after 12 hours on any workday in 2022 for employers with more than 25 employees, and in 2025 for employers with 25 or fewer employees.)” (DIR guidance, 7/26/19)
If this provision is still in effect at the indicated times, the overtime limits for each group of employers will be 8 hours per day, 40 hours per week. Days of the week are indicated for ease of dissemination. The “7th day premium” is applied to the 7th day in a week worked, it is not specific to Sunday.

Hour Estimates - 2025 – Small Employers:

	Min. Hourly Wage	OT – Time and 1/2	Double-time	Hours per Day
Monday	8	4	12	24
Tuesday	8	4	12	24
Wednesday	8	4	12	24
Thursday	8	4	12	24
Friday	8	4	12	24
Saturday		12	12	24
Sunday		8	16	24
Total Hours	40	40	88	168

*Note: This information is derived directly from written correspondence received from DIR. Verbally, this agency has indicated the calculated wage for this example would be \$2891.40. Further, the wage order provides an exemption from the 7th day premium wages but the DIR has applied this requirement in the written guidance. **ALL THIS INFORMATION IS SUBJECT TO CHANGE.***
Updated 09/04/2019