



Mexico Imposes Hefty New Penalties for Excessive Work Hours: 3 Things Employers Need to Know

Insights

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Employers doing business in Mexico should understand significant new consequences for requiring employees to work excessive hours. Specifically, Mexico's Human Trafficking Law — which aims to protect certain disadvantaged groups — was recently amended to classify work schedules as “labor exploitation” when they exceed nine hours of overtime in a week. The update, which took effect on June 8 shortly after publication, imposes potential criminal penalties and significant fines on employers that require employees to work excessive hours. Here are the top three things you need to know and what you can do to stay compliant.

1. Understand Daily and Weekly Work Hour Rules

First, you should note that Mexico's Federal Labor Law (FLL) regulates work hours in the country. Regular shifts are defined as follows and are generally performed over a six-day workweek:

- **Day Shift:** Eight hours per day, 48 hours per week.
- **Night Shift:** Seven hours per day, 42 hours per week.
- **Mixed Shift** (which is a combination of day and night shifts): 7.5 hours per day, 45 hours per week.

Employees may work up to nine hours of overtime per week in some circumstances, and they are entitled to double their regular hourly rate for those hours. The FLL does not allow for overtime beyond nine hours each week, but if workers do exceed this limit, they must be paid triple their regular rate. Workers are also entitled to at least one full day of rest per week, which is typically on Sundays.

Compliance Tip: Be sure to track work hours, limit overtime hours as required under the FLL, and compensate properly for all hours worked. Additionally, you should ensure your managers are trained on the rules, schedule shifts appropriately, and have adequate coverage so workers do not exceed the limits.

2. Recognize Steep New Consequences for Noncompliance

It's important to understand how the FLL works in combination with a different law, Mexico's Human Trafficking Law (which has a long official name: the General Law to Prevent, Punish and Eradicate Crimes related to Human Trafficking and for the Protection and Assistance to the Victims of These Crimes.)

The Human Trafficking Law aims to protect vulnerable groups — including minors, women, the elderly, and people with disabilities — from exploitation. Notably, the Human Trafficking Law was just amended (effective June 8) to impose criminal penalties and fines on employers when workers exceed the FLL's nine-hour weekly limit on overtime work.

Here are the potential penalties:

- Three to 10 years in prison and a fine of 5,000 to 50,000 fine days. A "fine day" is a monetary penalty calculated based on the responsible party's daily income. For example, if an individual earns 500 pesos per day, a fine of 50,000 fine days would be 25 million pesos (500 x 50,000), which is about \$1.38 million in USD.
- When workers belong to indigenous or Afro-Mexican communities, the penalties increase to four to 12 years in prison and a fine of 7,000 to 70,000 fine days.

You should note that anyone, including worker advocacy groups and federal authorities, can report violations. Additionally, company managers can be held individually liable, and they may face prison time while the charges are being processed.

Compliance Tip: Work with experienced legal counsel to ensure you understand your obligations under Mexico's Federal Labor Law, account for any nuances that may apply to your workforce, and have an action plan to avoid violations and significant consequences.

3. Stay Tuned for More Changes

Mexico's Congress is considering a bill to reduce the regular workweek from 48 to 40 hours — so it's possible that the rules could change again in the near future. This change would require an amendment to the Constitution.

Lawmakers have been contemplating this issue for several years, and have delayed proceedings several times, but the bill could be finalized soon.

Compliance Tip: Make sure you are subscribed to Fisher Phillips' Insight System to have the most up-to-date information sent directly to your inbox.

Conclusion

For more information on how this impacts your operations in Mexico, reach out to your Fisher Phillips attorney or the author of this Insight. Fisher Phillips Mexico is at your service to assist you

with any questions related to this topic, as well as with any matter in labor law.

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