

New California Employment Legislation

OCTOBER 8, 2015

California Governor Brown recently signed two pieces of employment-related legislation, A.B. 1506 and S.B. 327, both of which are effective immediately. On October 2, the Governor signed A.B. 1506, which amends California's Private Attorney General Act (PAGA) to provide employers with an opportunity to cure a violation of the wage payment law relating to wage statements before the employee may bring a civil action. On October 5, Governor Brown signed S.B. 327, clarifying the validity of health care employee meal period waiver provisions in Industrial Welfare Commission (IWC) wage orders.

A.B. 1506

Under California Labor Code section 226, an employer is required to provide employees with certain information about their wages, including, among other things, the inclusive date of the period for which the employees are paid and the name and address of the legal entity that is the employer, either semi-monthly or at the time of each wage payment.

A.B. 1506 amends the law to provide employers the ability to cure a failure to provide the inclusive date of the period for which the employees are paid and/or the name and address of the legal entity that is the employer, before an employee may bring a civil action. As amended, the violation would only be considered cured upon a showing that the employer has provided a fully compliant, itemized wage statement to each aggrieved employee for each pay period for the three-year period prior to the date of the written notice of a violation. An employer would only be able to cure a violation once in a 12-month period. The provision further requires that an aggrieved employee give written notice via certified mail to both the Labor and Workforce Development Agency and the employer, consisting of the specific code provisions the employee alleges have been violated, and the facts and theories supporting the alleged violations.

Significantly, the employer may cure the alleged violation within 33 calendar days of the postmarked date of the notice. Within that time period, the employer must provide written notice, by certified mail, to the aggrieved employee or representative and the agency of the cure, including a description of the actions taken. If this is done, no civil action pursuant to PAGA may commence. If the alleged violation is not cured within the 33-day period, however, the employee may commence a civil action pursuant to PAGA.

To view A.B. 1506 click [here](#).

S.B. 327

California law prohibits an employer from requiring that an employee work during a meal, rest, or recovery period mandated by an applicable statute, regulation, standard, or order of the IWC, among other agencies, and further provides for penalties for an employer's failure to provide a mandated meal, rest, or recovery period. With certain exceptions, the law also authorizes the IWC to adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

Previously, the IWC adopted changes to Wage Orders 4 and 5 that allowed special meal period waiver rules for employees in the health care industry. Specifically, employees were allowed to voluntarily waive one of the two meal periods on shifts exceeding 12 hours. The recent California appellate court decision, *Gerard v. Orange Coast Memorial Medical Center*, created uncertainty regarding the validity of the IWC's health care employee meal period waiver provisions. Without clarification, the Gerard decision may have required California hospitals to alter scheduling practices. In light of Gerard, S.B. 327 clarifies that the health care employee meal period waiver provisions in Section 11(D) of Industrial Welfare Commission Wage Orders 4 and 5 are valid and enforceable, and should be followed.

To view S.B. 327 click [here](#).

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