

# California Workplace Law Blog

Insight & Commentary on California Workplace Law Issues & Developments

## Representative PAGA Law Allows Curing of Certain Wage Statement Violations

By [Jonathan A. Siegel](#) on October 7, 2015

An amendment to California's Labor Code Private Attorneys General Act of 2004 ("PAGA") affords an employer the right to cure certain wage statement violations before an employee may bring a civil suit against the employer.

This is a win for employers. The amendment, [AB 1506](#), provides employers the right to cure a violation of failing to provide its employees with a wage statement containing the inclusive dates of the pay period and the name and address of the legal entity that is the employer, as required under California Labor Code section 226(a). The amendment, signed by Governor Jerry Brown on October 2, 2015, is effective immediately.

California Labor Code section 226(a) requires an employer to provide its employees with specific information regarding their wages either semimonthly or at the time of each wage payment.

Prior to the amendment, the law did not allow employers to cure a violation of Labor Code section 226(a) before an employee could bring a civil action. Thus, employees were allowed to bring civil actions under the PAGA for such violations and the employer would immediately have to defend itself against the action. The newly signed amendment drastically changes the procedures for bringing civil actions under the PAGA for Labor Code section 226(a) violations, including giving the employer notice of and time to cure the violation.

A PAGA claim is a type of government enforcement action where the representative employee acts as the state's proxy. An employee may bring an action for civil penalties on behalf of the state against his or her employer for Labor Code violations, including violations of California Labor Code section 226(a), committed against the employee and fellow employees, with 75 percent of the proceeds of that litigation going to the state and 25 percent of the proceeds going to the employee who brought the action.

The amendment states that an alleged violation of Labor Code section 226(a) will be considered cured upon a showing that the employer has provided a fully compliant, itemized wage statement to each aggrieved employee as

required. The employer must be given notice of and time to cure the alleged violation. The employer may utilize this provision only once for the same violation of the statute during each 12-month period.

The amendment is a further positive development in light of the recent Ninth Circuit Court of Appeals ruling holding that the Federal Arbitration Act does not preempt California's *Iskanian* rule, which prohibits waiver of representative claims under the PAGA. For more information regarding the Ninth Circuit's ruling, please see our article, [California Ban on Waiver of Representative PAGA Claims Not Barred by Federal Arbitration Act, Federal Court Holds](#).

Jackson Lewis attorneys are available to answer inquiries regarding this development and assist employers.

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