

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 310 (Wiener)
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Fiscal: Yes
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ID

SUBJECT

Failure to pay wages: penalties

DIGEST

This bill permits an employee to recover a statutory penalty for their employer's failure to pay their wages, as specified, through an independent civil action.

EXECUTIVE SUMMARY

California has some of the strongest protections across the country for workers and for ensuring they can be made whole when they are wronged by their employer. These laws include rules for a minimum wage, for rest and meal breaks, for overtime pay, and for the timely payment of wages. Employers are generally required to pay employees twice per month on days specified in advance as regular paydays, and employers must generally pay employees immediately upon their termination, or within 72 hours if the employee quits. In addition, employers are prohibited from paying employees at a wage rate different than that of an employee of the opposite sex or another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, unless the employer demonstrates certain circumstances. When an employer fails to pay their employees under these provisions, an employee may pursue specified penalties through a complaint with the Labor Commissioner (LCO), or through an action through the Private Attorneys' General Act (PAGA). However, the LCO process historically takes a considerable amount of time, and an employee is only entitled to 35% of any recovered penalties through PAGA. SB 310 proposes to allow an employee to pursue the specified penalties for an employer failing to pay them on time or at rates equal to those paid to employees of the opposite sex or another race or ethnicity through an independent civil action. SB 310 is sponsored by the California Rural Legal Assistance Foundation and Legal Aid at Work, and is supported by a broad coalition of workers' rights organizations. It is opposed by the California Chamber of Commerce and a variety of

other business and industry groups. SB 310 passed out of the Senate Labor, Public Employment, and Retirement Committee by a vote of 4 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes within the Department of Industrial Relations (DIR) the Division of Labor Standards Enforcement (DLSE) under the direction of the LCO, and empowers the LCO to ensure a just day's pay in every work place and to promote justice through the robust enforcement of labor law. Empowers the LCO to enforce, among other things, wage and hour law, anti-retaliation provisions, and employer notice requirements (Lab. Code §§ 79 et seq.)
- 2) Authorizes the LCO to investigate employee complaints, conduct hearings, and issue orders, decisions, and awards regarding complaints. Requires that the LCO notify the parties within 30 days of the filing of a complaint whether a hearing will be held, the LCO will prosecute the case, or whether no further action will be taken. Requires that, if the LCO will hold a hearing, the hearing be held within 90 days of the date of that determination, with the option of postponement as specified. Specifies the required notice that the LCO must provide the parties regarding the complaint and the proceeding, and allows a defendant to file an answer within 10 days of service of the notice and complaint. (Lab. Code § 98.)
- 3) Authorizes, until January 1, 2029, a public prosecutor, defined as the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor, to prosecute an action, either civil or criminal, for a violation of certain provisions of the Labor Code. Specifies that such an action by a public prosecutor must be limited to redressing violations that occur within the public prosecutor's geographic jurisdiction, unless the public prosecutor has statewide authority. Requires the court to award a prevailing plaintiff in actions brought by a public prosecutor reasonable attorney's fees and costs, including expert witness fees and costs. (Lab. Code §§ 180, 181.)
- 4) Establishes a citation process for the LCO to enforce violations of the minimum wage that includes, but is not limited to, issuing citations, making and noticing findings as prescribed, requiring any amounts due after a hearing be due 45 days after notice of the finding, and taking all appropriate actions to enforce the citation and recover an assessed civil penalty. (Lab. Code §§ 1197 et seq.)
- 5) Establishes the PAGA, providing a process through which an aggrieved employee may bring a civil action to recover a civil penalty for labor law violations on behalf of themselves and other current or former employees who suffered similar harm. Provides a specified civil penalty available through an employee's action when the

provisions of the Labor Code violated do not specifically provide for a civil penalty. (Lab. Code §§ 2699 et seq.)

- 6) Requires a “temporary services employer,” as defined, to pay their employees on a weekly basis, or on a daily basis if the employee is assigned to work for a client of the employer on a day-by-day basis. (Lab. Code § 201.3.)
- 7) Requires all wages, except as specified, to be paid twice during each calendar month, on days designated in advance as regular paydays. Specifies that labor performed between the first and fifteenth days of the month must be paid between the sixteenth and twenty-sixth day of the month, and that labor performed during the sixteenth and last day of the month be paid between the first and the tenth day of the following month, except as specified. (Lab. Code § 204.)
- 8) Specifies that employers may pay employees on a weekly basis on a regular day designated in advance as a regular payday, as specified. (Lab. Code § 204b.)
- 9) Requires that the commission wages of an individual employed by a vehicle dealer be paid once during each calendar month on a day designated in advance as a regular payday, unless there is a collective bargaining agreement between the employer and employees that specifies a different pay schedule. Defines commission wages as compensation paid to any person for services rendered in the sale of such employer’s property or services and based proportionately upon the amount or value of the property or services sold. (Lab. Code § 204.1.)
- 10) Specifies that the salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act (FLSA), earned for labor in excess of 40 hours in a calendar week, be paid on or before the twenty-sixth day of the calendar month immediately following the month in which the labor was performed, unless the employee is covered by a collective bargaining agreement that provides for a different timeline. (Lab. Code § 204.2.)
- 11) Requires commission wages paid to an employee licensed under the Barbering and Cosmetology Act to be paid at least twice during each calendar month on a day designated in advance as a regular payday, and specifies the rates of pay required for such work. (Lab. Code § 204.11.)
- 12) Requires, in agricultural and other similar, specified industries in which the employee is boarded and lodged by the employer, that the employer pay the employee once in each calendar month on a day designated in advance as a regular payday. Specifies that no successive payday may be more than 31 days apart, and that payment must include all wages up to the regular payday. Specifies that wages of agricultural workers employed by a farm labor contractor must be paid at least once every week, as specified. (Lab. Code § 205.)

- 13) Requires all wages earned by an agricultural employee, as defined, be due twice during each calendar month on days designated in advance as regular paydays, and specifies that labor performed between the first and fifteenth days of the month must be paid between the sixteenth and twenty-second day of the month, and that labor performed between the sixteenth and last day of each month must be paid within the first and seventh day of the following month. (Lab. Code § 205.5.)
- 14) Prohibits an employer from paying any of its employees at wages less than the rates of employees of the opposite sex or another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, unless the employer demonstrates that: the wage differential is based upon one or more specified factors; each factor relied upon is applied reasonably; the factors relied upon account for the entire wage differential; and that prior salary may not justify any wage differential without justification by one of the other factors. Specifies that the DLSE may commence an action to prosecute a violation of this prohibition, and that an employee underpaid pursuant to this section may file a complaint with DLSE or bring a civil action to recover the wages underpaid with interest. Prohibits an employer from firing, discriminating against, or retaliating against an employee for acting to enforce this section. (Lab. Code § 1197.5.)
- 15) Specifies that, in addition and entirely independent and apart from any other penalty available under the Labor Code, every person who fails to timely pay the wages of each employee, or pays an employee at a wage rate different than that of an employee of the opposite sex or another race or ethnicity for similar work, as specified, is subject to the following penalties:
 - a) \$100 for each failure to pay each employee, for any initial violation; or
 - b) \$200 for each failure to pay each employee for each subsequent violation, plus 25% of the amount unlawfully withheld. (Lab. Code § 210)
- 16) Specifies that the penalty described in (15), above, must either be recovered by the employee as a statutory penalty through a complaint with the LCO or by the LCO as a civil penalty through the issuance of a citation. Specifies that the procedures for issuing, contesting, and enforcing such citations are the same as those specified for citations for violations of the minimum wage law. (Lab. Code § 210(b).)
- 17) Specifies that an employee is only entitled to either recover the statutory penalty provided for pursuant to (15), above, or to enforce a civil penalty under PAGA, but not both, for the same violation. (Lab. Code § 210(c).)
- 18) Specifies that, in any action for the nonpayment of wages, the court must award interest on all due and unpaid wages, to accrue from the date that the wages were due and payable, and at a rate as specified. (Lab. Code § 218.6.)

This bill:

- 1) Specifies that the penalty for an employer's failure to pay the wages of each employee, as described in (15), above, also may be recovered by the employee through an independent civil action.
- 2) Specifies that an employee may only recover the penalty described in (15), above, as a statutory penalty through a complaint to the LCO or through an independent civil action, or to enforce it as a civil penalty through PAGA.

COMMENTS

1. Author's statement

According to the author:

Senate Bill 310 allows workers to recover the full amount of statutory penalties in a timely manner when their employers fail to pay wages on time. Wage theft is a widespread problem in California, with the State Labor Commissioner receiving tens of thousands of complaints each year. When employers do not pay wages on time, they cause extreme financial hardship for the many employees living paycheck to paycheck, who rely on their wages to pay for food, rent, and other daily necessities. This delay in payment essentially amounts to an interest-free loan from the employee to the employer.

Currently, the law allows workers to seek penalties from their employer when they do not receive their full wages on time. However, workers can only recover these penalties through a Labor Commissioner Office (LCO) wage claim hearing in which workers have to wait years to even get a hearing, or through a Private Attorneys General Act (PAGA) lawsuit in which workers can only recover a fraction (35%) of the entire penalty amount. Although workers may recover penalties via an LCO or PAGA action, both of these avenues have significant drawbacks that, in practice, make it very difficult for workers to recover the full penalties they are entitled to for late payment.

This bill creates a better path for workers to recover all of the penalties: through a civil action. A civil action would not change the amount of penalties for which employers are liable, but it would allow affected workers to recover 100% of the available penalties, and would avoid the delays of the Labor Commissioner process. Everyone deserves to be paid their full wages in a timely manner for the work they do. Senate Bill 310 creates a straightforward, new path for workers to recover the full penalties when they are paid late.

2. Wage theft and delayed paychecks are major issues in California

California has some of the strongest protections across the country for workers and for ensuring they can be made whole when they are wronged by their employer. These laws include rules for a minimum wage, rest and meal breaks, overtime pay, and the timely payment of wages, and rules against retaliation for an employee asserting their rights. Many of California's labor laws include statutory penalties and fines for employers who violate them. These laws ensure that California's workforce and economy are the strongest in the world and that workers' rights, fair treatment and pay, and dignity are respected.

However, laws are only as good as the extent to which they are followed and enforced, and labor law violations continue to be a major problem across the state. A 2017 study found that 19.2% of low-wage workers experience minimum wage violations in California each year, with employers stealing almost two billion dollars from California workers every year through minimum wage violations.¹ Another study found even higher losses for California workers; across three metropolitan areas covering Los Angeles, San Diego, and the Bay Area, employers were estimated to have stolen an average of 2.3 to 4.6 billion dollars in earned wages from workers each year between 2014 and 2023.² Furthermore, the number of underpaid workers has more than doubled since 2014, with a dramatic increase of 56 percent from 2022 to 2023.³ This wage theft disproportionately affects African American, Latinx, noncitizen, and women workers. Given these statistics, wage theft remains a bigger problem of theft in California than all other forms of theft.⁴

3. California's labor laws mandate specific timelines on which workers must be paid

Wage theft can include a variety of labor law violations, including when an employer does not pay their workers the minimum wage or fails to pay workers in a timely manner. In California, labor law specifies precisely when employers must pay their employees. Generally, employers must pay workers their wages twice each calendar month on days designated in advance as regular paydays. (Lab. Code § 204.) When a worker is fired or terminated, an employer generally must pay the worker their final wages due immediately. (Lab. Code §§ 201-203.) If an employee quits, they must be paid their final wages within 72 hours of their resignation, unless they provide their

¹ David Cooper & Teresa Kroeger, "Employers steal billions from workers' paychecks each year," Economic Policy Institute (May 10, 2017), <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/>.

² Jake Barnes et al., Wage Theft in California: Minimum wage violations, 2014-2023, Rutgers School of Mgmt. and Lab. Rel. (May 2024), available at <https://www.smlr.rutgers.edu/news-events/smlr-news/minimum-wage-theft-rises-sharply-california>.

³ *Id.*

⁴ Ross Eisenbrey & Brady Meixell, "Wage theft is a much bigger problem than other forms of theft – but workers remain mostly unprotected," Economic Policy Institute (Sept. 18, 2014), <https://www.epi.org/publication/wage-theft-bigger-problem-forms-theft-workers/>.

employer at least 72 hours' notice of their resignation, in which case their employer must pay them on their last day of work. (Lab. Code § 202.) The Labor Code also includes additional, specific rules for the payment of wages in specific industries and circumstances.

Some research has demonstrated a significant prevalence of employers failing to pay workers on time. One such study found that 42.1% of respondent workers in Los Angeles had experienced at least one pay-related violation (such as off-the-clock work, underpayment, not being paid at all, or late payment) in the past twelve months.⁵ It also found that 27.3% of respondents reported being paid late in the past twelve months, with those who experienced late payments experiencing five incidents of late payments on average during that period. Often, this late payment occurred due to bounced checks, or because their employer said they did not have the money to pay their employee. Another study of restaurant workers in a district in San Francisco found that 16.7% of respondents reported that their employer had failed to pay their wages on time.⁶

These delays can have significant consequences. When an employer fails to pay workers on time, workers may miss paying their bills or rent or may have to find alternative ways of meeting their needs while they wait to be paid. These alternative ways may come with additional costs or charges, and missing payments for the worker's own financial obligations could risk their credit, late payment charges, and eviction.

4. Labor law also prohibits discrimination in wages on the basis of an employee's sex, race, or ethnicity

The California Equal Pay Act was first enacted in 1949 but substantially updated in 2015 through SB 358 (Jackson, Ch. 546, Stats. 2015). The Act requires that men and women be paid equal pay for equal work. It is codified in Labor Code section 1197.5, which prohibits an employer from paying its employees at wage rates less than those of other employees of the opposite sex, or another race or ethnicity who is doing substantially similar work, unless the employer can demonstrate certain conditions are met. (Lab. Code § 1197.5.) Those conditions are: that the wage differential was based upon a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or upon a bona fide factor other than the prohibited discrimination; that each factor relied upon is applied reasonably; that one or more other factors relied upon accounted for the entire wage differential; and that the prior

⁵ Ruth Milkman et al., Wage Theft and Workplace Violations in Los Angeles: the failure of employment and labor law for low-wage workers, UCLA Institute for Research on Labor and Employment, p. 25 (2010), available at <https://labor.ucla.edu/publications/wage-theft-and-workplace-violations-in-los-angeles/>.

⁶ Meredith Minkler et al., Wage Theft as a Neglected Public Health Problem: An overview and case study from San Francisco's Chinatown district, Am. J. Pub. Health Vol. 104, No. 6, p. 1017 (Jun. 2014), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC4062017/>.

salary of the worker did not justify the compensation disparity. (Lab. Code § 1197.5(a)-(b).) The Equal Pay Act allows the LCO to bring an action to prosecute a violation of its provisions requiring equal pay, and also allows an aggrieved worker under its provisions to file a complaint with the LCO or bring an action in court. (Lab. Code § 1197.5(f)-(h).) It also prohibits an employer from firing, discriminating against, or otherwise retaliating against an employee for asserting their rights to equal pay. (Lab. Code § 1197.5(k).) Despite this Act, data continues to demonstrate persistent inequities in income for women and people of color in California.⁷

5. Current avenues for workers to recover are limited

When an employer fails to pay its workers on time or discriminates against them in their wages, the Labor Code provides for a number of penalties for those violations. If an employer fails to pay an employee who quits or is terminated their wages when due, the wages continue to be due as a statutory penalty recoverable by the employee until they are paid or a civil action is brought to recover the wages, with a maximum amount of statutory penalties of 30 days' wages. (Lab. Code § 203.) In addition, if an employer who fails to pay their workers on time or pays a wage less than for a similar employee of the opposite sex, race, or ethnicity, Labor Code section 210 provides for a penalty of \$100 for each violation. (Lab. Code § 210.) That section also provides for a penalty of \$200 for each subsequent violation or for a willful or intentional violation, plus 25% of the amount unlawfully withheld. (Lab. Code § 210(a)(2).) Previously, these penalties were only recoverable by the LCO as a civil penalty, but AB 673 (Carrillo, Ch. 716, Stats. 2019) amended the law to allow workers to recover these penalties as statutory penalties through the LCO. However, the law only allows a worker to recover this penalty as a statutory penalty, or enforce the civil penalty provided for in the Private Attorneys' General Act (PAGA), but not both. (Lab. Code § 210(c).) The Labor Code also provides that, in an action for the nonpayment of wages, the court must award reasonable attorney's fees and costs to the prevailing party and interest on all due and unpaid wages. (Lab. Code §§ 218.5-218.6.)

The worker generally can pursue redress for a labor law violation in one of three ways: through a civil action for damages, through a PAGA claim, or through a wage claim with the Labor Commissioner (LCO). The LCO investigates employee complaints of labor law violations, hears and adjudicates claims, issues citations for violations of certain labor laws, and also prosecutes labor law violations on behalf of employees. However, the LCO has experienced chronic staffing and funding shortages for many years, resulting in cases taking 505 days to be adjudicated on average.⁸ A Legislative

⁷ Kelly Lu, "New pay data shows ongoing gender, racial pay gaps in California," Davis Vanguard (April 5, 2025), <https://davisvanguard.org/2025/04/new-pay-data-shows-ongoing-gender-racial-pay-gaps-in-california/>.

⁸ Jeanne Kuang, "Agency battling wage theft in California is too short-staffed to do its job," CalMatters (Oct. 17, 2022), <https://calmatters.org/california-divide/2022/10/agency-battling-wage-theft/?series=unpaid-wages-california-workers>.

Analyst's Office analysis found that about 33,000 workers file wage claims with the LCO every year, with workers reporting collecting less than 20 percent of unpaid wages owed.⁹ Moreover, the State Auditor found that, between 2018 and 2023, about 28 percent of employers liable for wage theft failed to make payments ordered by the LCO.¹⁰ With such long processing times in cases before the LCO and such low rates of recovery even after the LCO finds for the employee, many workers simply give up and withdraw their claims.

The other two options an aggrieved worker has is to sue their employer in court directly, either as a normal suit for damages or as PAGA lawsuit, or through both. PAGA is a representative civil action for civil penalties in which the worker essentially acts on behalf of the state to enforce labor law. However, a worker may only recover the penalties provided for in Labor Code section 210 through a PAGA action or through the LCO. (Lab. Code § 210(b).) They also may not simultaneously pursue the penalties through the LCO and a PAGA action for the same violation. (Lab. Code § 210(c).)

PAGA actions have a number of significant drawbacks as an avenue for recovery as well. For one, PAGA actions can be quite complicated, as they include a number of additional steps that a worker must take. These include notifying the LCO of the action, and engaging with the employer through a potential cure process by which the employer can cure certain labor law violations to avoid the civil penalties and the PAGA action itself. Additionally, if a worker does win their PAGA claim, they are not entitled to the full penalty awarded; instead, they receive 35% of the penalty, while the other 65% goes to the LCO. (Lab. Code § 2699(m).) If the employer takes all reasonable steps to comply with the law alleged to have been violated, PAGA also limits the civil penalty recoverable to 15% or 30% of the civil penalty sought, depending on when in the process the employer takes those steps. (Lab. Code § 2699(g)-(h).)

6. SB 310 provides workers the ability to obtain penalties when an employer fails to pay them on time

Thus, PAGA has significant limitations for the recovery of penalties for workers who suffer late payments or discriminatory wages. With the considerable delays typical for a case through the LCO, an aggrieved worker has no good options for such recovery. A worker could pursue damages in a civil action on their own, but when the violation is a late payment of the worker's paycheck, the damages the worker is owed may be considerably less than the amount of penalties that the law provides. For example, if a worker is ultimately paid their wages, the only recovery they may be entitled to is the interest on their wages that would have accrued during the period of late payment.

⁹ Legislative Analyst's Office, "The 2020-2021 Budget: Improving the State's Unpaid Wage Claim Process," (Feb. 19, 2020), <https://lao.ca.gov/Publications/Report/4165>.

¹⁰ California State Auditor, "2023-104 The California Labor Commissioner's Office: Inadequate staffing and poor oversight have weakened protections for workers," Report No. 2023-104 (May 29, 2024), <https://www.auditor.ca.gov/reports/2023-104/>.

Thus, without the ability to obtain statutory damages, workers may be without a viable remedy and without a case of a sufficient amount in controversy to be able to obtain an attorney to represent them.

SB 310 proposes to provide workers who are not paid on time, or who are paid discriminatory wages, an opportunity to recover statutory penalties on their own, without going through the LCO, by permitting a worker to recover the statutory penalties in Labor Code section 210 through an independent civil action. Through the process created by SB 310, the worker would be able to recover the full civil penalty themselves, and would not have to go through the LCO to do so. By providing this opportunity, an aggrieved worker would be better made whole, and would have a more expedient avenue of accessing justice. Ultimately, this improves recovery for the worker, and allows for greater enforcement of the state's laws around the timely payment of wages and equity in wage rates.

7. Arguments in support

According to the California Rural Legal Assistance Foundation and Legal Aid at Work, the sponsors of SB 310:

Under current law, all wages are generally due and payable twice during each calendar month on days designated in advance by the employer as the regular paydays. When wages are not paid on time, this can cause extreme financial hardship for the many employees living paycheck to paycheck, who rely on a timely paycheck to pay for food, rent, and other daily necessities. Moreover, this delay in payment essentially amounts to an interest-free loan from the employee to the employer.

In one case against a popular restaurant in San Francisco, workers were routinely issued paychecks two to four weeks after they were due. Often, workers were told to wait several days to cash their paycheck, and even then the employer's account would contain insufficient funds. One worker estimated that in the ten years he was employed at the restaurant, approximately half of his paychecks were late. Another worker's landlord threatened to initiate eviction proceedings against the worker because he could not pay his rent due to a delayed paycheck. In another example, a grower never set up a regular payday and failed to pay farmworkers consistently. This employer would take from a couple of weeks to a few months to pay the farmworkers for their labor. When the grower did pay, the grower failed to pay for all hours worked, leaving the worker unable to track how much he was owed.

Prior to 2019, there was no explicit remedy for employees who were not paid on their designated payday. AB 673 (Carrillo, 2019) amended Labor Code section

210 to allow workers to recover penalties for such violations through a Labor Commissioner Office (LCO) wage claim hearing or through a PAGA civil action.

However, in a PAGA action, aggrieved workers recover only 35% of the assessed penalty amount – the remaining 65% goes to the state. If a worker chooses instead to pursue her claim with the LCO, she will have to wait two to five years to even get a hearing date because of the extensive backlog of wage claims. (See State Auditor’s 2024 report on the LCO wage theft claims process: “The California Labor Commissioner’s Office: Inadequate Staffing and Poor Oversight Have Weakened Protections for Workers” (May 2024).)

SB 310 would amend Labor Code section 210 so that an employee can recover 100% of the penalties due to her for late payment of wages through an independent civil action. Enactment of this bill would positively affect a worker who might be discouraged from pursuing her claim for 100% of penalties because of the inordinate delays at the LCO, and discouraged from pursuing PAGA litigation because she would only receive 35% of the penalty intended to compensate her for the negative consequences of late payment. Importantly, the amount of penalties the employer must pay in a civil action would remain the same as what the employer would pay in a PAGA action or in an LCO wage claim hearing.

8. Arguments in opposition

According to the California Chamber of Commerce, which opposes SB 310:

Last Spring, this Legislature passed historic reforms to the Private Attorneys General Act (PAGA). PAGA is a labor law enforcement mechanism that was ripe for abuse given its steep penalties and lack of guardrails that applied regardless of the merits of the case or any alleged harm. That reform was the direct result of the administration bringing together both business and labor stakeholders to address two decades of attorney exploitation of PAGA.² Some trial attorneys unfortunately still have not changed their practices.

SB 310 is problematic because it introduces a new pathway for trial attorneys to exploit penalties as leverage in meritless wage-and-hour cases – precisely the type of conduct that the PAGA reforms were designed to curb. SB 310 creates a private right of action to seek penalties under Labor Code section 210. Labor Code section 210 authorizes penalties of \$100 or \$200 per violation of multiple Labor Code provisions, including section 204. Presently, those penalties are recoverable by the Labor Commissioner or through PAGA. In fact, PAGA was created to serve as the private right of action for a plaintiff to seek penalties that had historically only been collectable by the Labor Commissioner, like section

210. Now, the proponents are arguing that PAGA is “not a good option”, advocating for the creation of additional private rights of actions for penalties.

There are several key concerns with SB 310. First, Labor Code section 204 violations are among the most common "derivative claims" in wage-and-hour lawsuits. Under the derivative claim theory, if an employee asserts they are owed even a single dollar, it can be argued that their wages are late and that section 204 has therefore been violated. This strategy is often employed to increase leverage in class action cases and is typically coupled with claims that are difficult for employers to disprove, such as off-the-clock work or missed rest breaks. A violation of section 204 triggers penalties under section 210. By allowing these penalties to be pursued through a new private right of action, SB 310 effectively legitimizes the practice of pleading these derivative claims, even when there is no merit.

Second, SB 310 does not protect against stacking of penalties. While section 210 provides that the penalty cannot be stacked with PAGA for the “same violation,” it does not prohibit both 210 and PAGA from being claimed in the same complaint. This is precisely what trial attorneys aim to do: claim section 210 penalties for one derivative violation of section 204, while pursuing PAGA penalties for all other alleged violations. The practical consequence of SB 310 is that it becomes a procedural tool to inflate the overall settlement value of a case.

SUPPORT

California Rural Legal Assistance Foundation (sponsor)
Legal Aid At Work (sponsor)
Asian Americans Advancing Justice Southern California
Asian Americans and Pacific Islanders for Civic Empowerment
Asian Law Caucus
California Coalition for Worker Power
California Domestic Workers Coalition
California Employment Lawyers Association
California Federation of Labor Unions, AFL-CIO
California Nurses Association
California State Association of Electrical Workers
California State Pipe Trades Council
Center for Workers' Rights
Chinese Progressive Association
Clean Carwash Worker Center
Inland Empire Labor Council, AFL-CIO
LA Raza Centro Legal
Legal Link
Loyola Law School, the Sunita Jain Anti-trafficking Initiative

Mexican-American Legal Defense and Ed Fund [MALDEF]
National Employment Law Project
Pilipino Workers Center
Public Counsel
Santa Clara County Wage Theft Coalition
Trabajadores Unidos Workers United
UC Hastings Community Justice Clinics
UFCW - Western States Council
Wage Justice Center
Western States Council Sheet Metal, Air, Rail and Transportation
Worksafe

OPPOSITION

Agricultural Council of California
American Petroleum and Convenience Store Association
American Staffing Association
Anaheim Chamber of Commerce
Associated Equipment Distributors
Associated General Contractors
Associated General Contractors San Diego
Brea Chamber of Commerce
California Alliance of Family Owned Businesses
California Association of Health Facilities
California Association of Sheet Metal & Air Conditioning Contractors National
Association
California Attractions and Parks Association
California Building Industry Association
California Chamber of Commerce
California Construction and Industrial Materials Association
California Farm Bureau
California Financial Services Association
California Hispanic Chambers of Commerce
California Hospital Association
California Hotel & Lodging Association
California League of Food Producers
California New Car Dealers Association
California Pest Management Association
California Restaurant Association
California Retailers Association
California Staffing Professionals (CSP)
California Trucking Association
Carlsbad Chamber of Commerce
Carson Chamber of Commerce

Chino Valley Chamber of Commerce
Civil Justice Association of California (CJAC)
Construction Employers' Association
Corona Chamber of Commerce
Family Business Association
Family Winemakers of California
Folsom Chamber of Commerce
Fontana Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Hayward Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
LA Canada Flintridge Chamber of Commerce
Leadingage California
Livermore Valley Chamber of Commerce
Long Beach Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Theatre Owners of California
National Federation of Independent Business
Newport Beach Chamber of Commerce
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Paso Robles Templeton Chamber of Commerce
Plumbing-heating-cooling Contractors Association
Rancho Cordova Area Chamber of Commerce
Roseville Area Chamber of Commerce
San Diego Regional Chamber of Commerce
Santa Ana Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Southwest California Legislative Council
Torrance Area Chamber of Commerce
Western Electrical Contractors Association
Western Growers Association

RELATED LEGISLATION

Pending Legislation:

SB 642 (Límon, 2025) amends, among other changes to the Labor Code, the prohibition against an employer from paying any of its employees at a wage rate less than those

paid to employees of the opposite sex for substantially similar work, to instead include employees of another sex. SB 642 is currently pending before this Committee.

Prior Legislation:

AB 594 (Maienschein, Ch. 659, Stats. 2023) authorized the Attorney General, district attorneys, city attorneys, county counsel, or any other city prosecutors to enforce specified provisions of the Labor Code. AB 594 provided for its provisions to be repealed on January 1, 2029.

AB 673 (Carrillo, Ch. 716, Stats. 2019) authorized employees whose employer failed to pay their wages on time or who paid them at different rates than employees of the opposite sex or another race or ethnicity to collect a statutory penalty through an action through the LCO, and specified that an employee may recover the penalty through a civil action, or through a PAGA action, but not both.

SB 358 (Jackson, Ch. 546, Stats. 2015) prohibited an employer from paying any of its employees at a wage rate less than those paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and revised specified exceptions to this prohibition. Prohibited an employer from discharging, or discriminating or retaliating against an employee who asserts their rights under its provisions, and provided an avenue for such an employee to bring an action for reinstatement, reimbursement, and equitable relief.

SB 796 (Dunn, Ch. 906, Stats. 2004) created the Labor Code Private Attorneys General Act of 2004, providing that an employee may bring a civil action on behalf of themselves and other employees who were subjected to a violation of the labor code by their employer, instead of pursuing their claim through the enforcement agency.

PRIOR VOTES:

Senate Labor, Public Employment, and Retirement Committee (Ayes 4, Noes 1)
