

## What's In Your Wage Statements?

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A wage statement (also known as a paystub) is more than a piece of paper. It can be the source of a lawsuit.

California law contains very specific requirements for the information employers must put on employees' wage statements, and imposes financial penalties on employers who don't follow those requirements.

If employees believe their wage statements aren't accurate, they can sue you — and the number of these lawsuits has increased dramatically in recent years. In particular, employees can file class-action and representative-action lawsuits under California's Private Attorneys General Act (PAGA) for wage statement violations.

The potential liability in these types of lawsuits can be staggering. If a wage statement violation is common to all the members of a class or representative action, the total penalties can number in the hundreds of thousands or even millions of dollars.

Plus, there are the costs of litigation in terms of attorneys' fees and time spent, the possible damage to the company's image or brand and the negative effect on employee morale.

**Employers must know the legal requirements for wage statements and ensure that wage statements are compliant.**

### Wage Statements Must Contain Certain Required Information

Under California law, employers must provide employees with an accurate, itemized wage statement when wages are paid.

What is a wage statement? Labor Code Section 226 describes a wage statement as an itemized written statement provided to employees either as a "detachable part of the check, draft or voucher paying the employee's wages" or a separate writing if the wages are paid by personal check or cash.

If you pay employees with hardcopy checks, the wage statement is usually the “detachable” paystub attached to the check. If you pay employees by direct deposit, the wage statement is usually a copy of the paystub with a “dummy” check attached instead of the real check.

Section 226 contains nine categories of information that must be included in wage statements. Additionally, the amount of an employee’s paid sick leave that is available for use must be included on the wage statement or on a separate written document provided when wages are paid.

Finally, Labor Code Section 226.2 requires employers to include additional information in wage statements given to employees paid on a piece-rate basis.

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### **Labor Code Section 226**

This section of the Labor Code requires wage statements to contain the following categories of information:

- Gross wages earned in the pay period.
- Total hours worked in the pay period. This requirement does not apply to employees who are exempt from the payment of minimum wage and overtime.
- The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis.
- All deductions from the employee’s wages. Deductions made on the employee’s written orders may be aggregated and shown as one item.
- Net wages earned in the pay period.
- The inclusive dates of the pay period, meaning the start and end date of the pay period.
- The employee’s name and only the last four digits of the employee’s Social Security number or employee identification number.
- The full name and address of the legal entity that is the employer. If the employer is a farm labor contractor, the wage statement must include the name and address of the legal entity that secured the services of the employer.
- All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Temporary services employers must provide employees with wage statements that show the rate of pay and total hours worked for each temporary services assignment.

## Paid Sick Leave

Labor Code Section 246(h) requires that employers notify employees each pay period of the paid sick leave they have available for use. Employers can include the balance on a wage statement or on a separate written document provided to employees when they are paid.

If employers provide paid sick leave through a paid time off (PTO) policy, they must provide the PTO balance. Employers with unlimited paid sick leave or PTO policies can comply by stating “unlimited.”

## Piece-Rate Employees

Labor Code Section 226.2 requires that employers pay piece-rate employees for rest and recovery periods and other non-productive time at specified minimum hourly rates. Section 226.2 also requires that employers include the following information on their piece-rate employees’ wage statements:

1. Total hours of compensable rest and recovery periods; the rate of compensation for those periods; and the total gross wages.
2. Total hours of compensable non-productive time; the rate of compensation for that time; and the total gross wages.

## What You Should Know

Wage statements must contain all the required information on their face. A wage statement is not complete if an employee must refer to another document to get the required information.

If you use a payroll company to prepare wage statements, you are responsible for providing your payroll company with all the information that must be contained in the wage statement. Review wage statements for completeness and accuracy; do not assume the wage statements are accurate.

**You will ultimately be responsible if a wage statement is inaccurate.**

## Penalties for Failing to Comply With Wage Statement Requirements

California law imposes penalties on employers who do not comply with wage statement requirements:

- If you fail to provide an employee with a wage statement, you face a penalty of \$250 per employee for the initial violation and \$1,000 per employee for subsequent violations (Labor Code Section 226.3).
- If you provide an employee with an inaccurate wage statement, you face a penalty of up to \$4,000 per employee. (Labor Code Section 226(e)).

In addition, an employee who files a lawsuit to recover penalties can also recover costs and attorneys' fees. An employee is entitled to recover penalties if the employee suffered "injury" because of an employer's "knowing and intentional failure to comply" with Section 226.

This is not a difficult standard to meet.

"Knowing and intentional" does not mean that an employer willfully violated the statute; courts have ruled that it is enough that the employer was aware of the information (or the lack of information) in the wage statement and still provided it to employees.

## Resources for Employers

Don't let your paystubs get you in trouble. [SmartStub](#), CalChamber's new interactive tool, can help you determine what information must be on your paystub.

SmartStub is available only to CalChamber members.

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## CalChamber Can Help ...

For more detailed information, see "Itemized Wage Statement" in the HR Library's [Form of Wage Payment](#) page.

To learn more about CalChamber resources, please call our Customer Service Representatives at (800) 331-8877, Monday through Thursday from 8 a.m. to 5 p.m. PT, and on Friday from 8 a.m. to 4 p.m. PT.