

This preliminary legislative history consists of 1) copies of all versions of the bill and 2) all analyses of the bill done by committees or floor analysis units. A collection of support and opposition letters in CRLAF's possession is included in part 3.

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**Senate Bill No. 1255**

**CHAPTER 843**

An act to amend Section 226 of the Labor Code, relating to employee compensation.

[Approved by Governor September 30, 2012. Filed with Secretary of State September 30, 2012.]

**legislative counsel's digest**

**SB 1255, Wright. Employee compensation: itemized statements.**

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount of the gross or net wages paid to the employee during the pay period or other specified

information, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, the name and address of the employer or legal entity that secured the services of the employer, and the name of the employee and only the last 4 digits of his or her social security number or an employee identification number other than a social security number, as specified.

This bill would incorporate changes to Section 226 of the Labor Code proposed by AB 1744 and AB 2674, to be operative only if this bill and either or both of these bills are chaptered and became effective on or before January 1, 2013, and this bill is chaptered last.

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*The people of the State of California do enact as follows:*

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are

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incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

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(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other

governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1.3. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a)

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shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

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(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1.5. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social

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security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed

an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete

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information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1.7. Section 226 of the Labor Code is amended to read:

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226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a

detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer

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in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed



an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

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(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 2. (a) Section 1.3 of this bill incorporates amendments to Section 226 of the Labor Code proposed by both this bill and AB 1744. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 226 of the Labor Code, and (3) AB 2674 is not enacted or as enacted does not amend that section,

and (4) this bill is enacted after AB 1744, in which case Sections 1, 1.5 and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 226 of the Labor Code proposed by both this bill and AB 2674. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 226 of the Labor Code, (3) AB 1744 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2674 in which case Sections 1, 1.3 and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 226 of the Labor Code proposed by this bill, AB 1744, and AB 2674. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 226 of the Labor Code, and (3) this bill is enacted after AB 1744 and AB 2674, in which case Sections 1, 1.3 and 1.5 of this bill shall not become operative.

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**--ENROLLED**

**Senate Bill No. 1255**

Passed the Senate August 29, 2012

*Secretary of the Senate*

Passed the Assembly August 27, 2012

*Chief Clerk of the Assembly*

This bill was received by the Governor this day

of , 2012, at o'clock m.

*Private Secretary of the Governor*

**CHAPTER**

An act to amend Section 226 of the Labor Code, relating to employee compensation.

legislative counsel's digest

SB 1255, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine

from the wage statement alone the amount of the gross or net wages paid to the employee during the pay period or other specified information, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, the name and address of the employer or legal entity that secured the services of the employer, and the name of the employee and only the last 4 digits of his or her social security number or an employee identification number other than a social security number, as specified.

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This bill would incorporate changes to Section 226 of the Labor Code proposed by AB 1744 and AB 2674, to be operative only if this bill and either or both of these bills are chaptered and became effective on or before January 1, 2013, and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

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(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by

subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly

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and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer

is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

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(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee’s wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee’s social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1.3. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate

units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours

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worked for each legal entity. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty

dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

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(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor

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Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized

statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1.5. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address

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of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by



subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty

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dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer

is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation,

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has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee’s wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee’s social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1.7. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate

units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the

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employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, “copy” includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

<sup>93</sup>(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business,

profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

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(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 2. (a) Section 1.3 of this bill incorporates amendments to Section 226 of the Labor Code proposed by both this bill and AB 1744. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 226 of the Labor Code, and (3) AB 2674 is not enacted or as enacted does not amend that section, and (4)

<sup>93</sup> this bill is enacted after AB 1744, in which case Sections 1, 1.5 and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 226 of the Labor Code proposed by both this bill and AB 2674. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 226 of the Labor Code, (3) AB 1744 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2674 in which case Sections 1, 1.3 and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 226 of the Labor Code proposed by this bill, AB 1744, and AB 2674. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 226 of the Labor Code, and (3) this bill is enacted after AB 1744 and AB 2674, in which case Sections 1, 1.3 and 1.5 of this bill shall not become operative.

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AMENDED IN ASSEMBLY AUGUST 23, 2012

AMENDED IN ASSEMBLY AUGUST 16, 2012

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL No. 1255**

**Introduced by Senator Wright**

February 23, 2012

An act to amend Section 226 of the Labor Code, relating to employee compensation.

legislative counsel's digest

SB 1255, as amended, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not

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exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount of the gross or net wages paid to the employee during the pay period or other specified information, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, the name and address of the employer or legal entity that secured the services of the employer, and the name of the employee and only the last 4 digits of his or her social security number or an employee identification number other than a social security number, as specified.

*This bill would incorporate changes to Section 226 of the Labor Code proposed by AB 1744 and AB 2674, to be operative only if this bill and either or both of these bills are chaptered and became effective on or before January 1, 2013, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely

based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and

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shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose

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duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing

and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

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(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized



statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

*SEC. 1.3. Section 226 of the Labor Code is amended to read:*

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate

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units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee *and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity.* The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by

subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer

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may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding *to exceed* an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) *An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.*

(B) *An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:*

(i) *The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).*

(ii) *Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).*

(iii) *The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section*

1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

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(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee’s wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee’s social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

*SEC. 1.5. Section 226 of the Labor Code is amended to read:*

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the

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employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of

the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. *For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.*

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the

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request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing

and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding *to exceed* an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) *An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.*

(B) *An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:*

(i) *The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).*

(ii) *Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).*

(iii) *The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section*

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*1682, the name and address of the legal entity that secured the services of the employer during the pay period.*

(iv) *The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.*

(C) *For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.*

(3) *For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.*

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability

on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

*SEC. 1.7. Section 226 of the Labor Code is amended to read:*

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226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee *and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity.* The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. *For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this*

*subdivision.*

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon

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reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding *to exceed* an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) *An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.*

(B) *An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:*

(i) *The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information*

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*required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).*

(ii) *Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay*

period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other

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governmental entity furnishes its employees with a check, draft, or voucher paying the employee’s wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee’s social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

*SEC. 2. (a) Section 1.3 of this bill incorporates amendments to Section 226 of the Labor Code proposed by both this bill and AB 1744. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 226 of the Labor Code, and (3) AB 2674 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1744, in which case Sections 1, 1.5 and*



*1.7 of this bill shall not become operative.*

*(b) Section 1.5 of this bill incorporates amendments to Section 226 of the Labor Code proposed by both this bill and AB 2674. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 226 of the Labor Code, (3) AB 1744 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2674 in which case Sections 1, 1.3 and 1.7 of this bill shall not become operative.*

*(c) Section 1.7 of this bill incorporates amendments to Section 226 of the Labor Code proposed by this bill, AB 1744, and AB 2674. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 226 of the Labor Code, and (3) this bill is enacted after AB 1744 and AB 2674, in which case Sections 1, 1.3 and 1.5 of this bill shall not become operative.*

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AMENDED IN ASSEMBLY AUGUST 16, 2012

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL No. 1255**

**Introduced by Senator Wright**

February 23, 2012

An act to amend Section 226 of the Labor Code, relating to employee compensation.

legislative counsel's digest

SB 1255, as amended, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

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This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement or fails to provide a wage statement showing

the name of the employee and the last 4 digits of his or her social security number or employee identification number. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount of the gross and *or* net wages paid to the employee during the pay period and how those gross and net wages were determined by reference only to specified information on the itemized wage statement *or other specified information*, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, and the name and address of the employer or legal entity that secured the services of the employer, *and the name of the employee and only the last 4 digits of his or her social security number or an employee identification number other than a social security number*, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the

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employee and *only* the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation

adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

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(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement or if the wage statement fails to comply with item (7) of subdivision (a).

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one *or more* of items (1) to (6), (8), or (9), *inclusive*, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages and *or* net wages paid to the employee during the pay period and how those gross and net wages were determined by reference only to the information *or any of the other information required to be provided* on the itemized wage statement provided pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay

period. *Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).*

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

*(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.*

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

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(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the hearing officer or factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee’s wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee’s social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

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**SENATE BILL No. 1255**  
**Introduced by Senator Wright**  
February 23, 2012

An act to amend Section 226 of the Labor Code, relating to employee compensation.

legislative counsel's digest

SB 1255, as amended, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

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This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement or fails to provide a wage statement showing the name of the employee and the last 4 digits of his or her social security number or employee identification number. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount of the gross and net wages paid to the employee during the pay period and how those gross and net wages were determined by reference only to specified information on the itemized wage statement, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, and the name and address of the employer or legal entity that secured the services of the employer, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing

showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that

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is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing

and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs

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and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement or if the wage statement fails to comply with item (7) of subdivision (a).

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by *any one of* items (1) to (6), inclusive, (8), and *or* (9) of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages and net wages paid to the employee during the pay period and how those gross and net wages were determined by reference only to the information on the itemized wage statement provided pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period.

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the hearing officer or factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in

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subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized

statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

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AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL**

**No. 1255**

**Introduced by Senator Wright**

February 23, 2012

An act to amend Section 226 of the Labor Code, relating to employee compensation.

**legislative counsel's digest**

SB 1255, as amended, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement or fails to provide a wage statement showing



the name of the employee and the last 4 digits of his or her social security number or employee identification number. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount of the gross and net wages paid to the employee during the pay period and how those gross and net wages were determined by reference only to specified information on the itemized wage statement, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, and the name and address of the employer or legal entity that secured the services of the employer, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 226 of the Labor Code is amended to  
2 read:

3 226. (a) Every employer shall, semimonthly or at the time of  
4 each payment of wages, furnish each of his or her employees,  
5 either as a detachable part of the check, draft, or voucher paying  
6 the employee's wages, or separately when wages are paid by  
7 personal check or cash, an accurate itemized statement in writing  
8 showing (1) gross wages earned, (2) total hours worked by the  
9 employee, except for any employee whose compensation is solely  
10 based on a salary and who is exempt from payment of overtime  
11 under subdivision (a) of Section 515 or any applicable order of  
12 the Industrial Welfare Commission, (3) the number of piece-rate  
13 units earned and any applicable piece rate if the employee is paid  
14 on a piece-rate basis, (4) all deductions, provided that all deductions  
15 made on written orders of the employee may be aggregated and  
16 shown as one item, (5) net wages earned, (6) the inclusive dates  
17 of the period for which the employee is paid, (7) the name of the  
18 employee and the last four digits of his or her social security  
19 number or an employee identification number other than a social  
20 security number, (8) the name and address of the legal entity that  
21 is the employer and, if the employer is a farm labor contractor, as  
22 defined in subdivision (b) of Section 1682, the name and address  
23 of the legal entity that secured the services of the employer, and

1 (9) all applicable hourly rates in effect during the pay period and  
2 the corresponding number of hours worked at each hourly rate by  
3 the employee. The deductions made from payment of wages shall  
4 be recorded in ink or other indelible form, properly dated, showing  
5 the month, day, and year, and a copy of the statement and the

6 record of the deductions shall be kept on file by the employer for  
7 at least three years at the place of employment or at a central  
8 location within the State of California.

9 (b) An employer that is required by this code or any regulation  
10 adopted pursuant to this code to keep the information required by  
11 subdivision (a) shall afford current and former employees the right  
12 to inspect or copy records pertaining to their employment, upon  
13 reasonable request to the employer. The employer may take  
14 reasonable steps to ensure the identity of a current or former  
15 employee. If the employer provides copies of the records, the actual  
16 cost of reproduction may be charged to the current or former  
17 employee.

18 (c) An employer who receives a written or oral request to inspect  
19 or copy records pursuant to subdivision (b) pertaining to a current  
20 or former employee shall comply with the request as soon as  
21 practicable, but no later than 21 calendar days from the date of the  
22 request. A violation of this subdivision is an infraction.  
23 Impossibility of performance, not caused by or a result of a  
24 violation of law, shall be an affirmative defense for an employer  
25 in any action alleging a violation of this subdivision. An employer  
26 may designate the person to whom a request under this subdivision  
27 will be made.

28 (d) This section does not apply to any employer of any person  
29 employed by the owner or occupant of a residential dwelling whose  
30 duties are incidental to the ownership, maintenance, or use of the  
31 dwelling, including the care and supervision of children, or whose  
32 duties are personal and not in the course of the trade, business,  
33 profession, or occupation of the owner or occupant.

34 (e) (1) An employee suffering injury as a result of a knowing  
35 and intentional failure by an employer to comply with subdivision  
36 (a) is entitled to recover the greater of all actual damages or fifty  
37 dollars (\$50) for the initial pay period in which a violation occurs  
38 and one hundred dollars (\$100) per employee for each violation  
39 in a subsequent pay period, not to exceed an aggregate penalty of

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1 four thousand dollars (\$4,000), and is entitled to an award of costs  
2 and reasonable attorney's fees.

3 (2) (A) An employee is deemed to suffer injury for purposes  
4 of this subdivision if the employer fails to provide a wage statement  
5 or if the wage statement fails to comply with item (7) of subdivision  
6 (a).

7 (B) An employee is deemed to suffer injury for purposes of this  
8 subdivision if the employer fails to provide accurate and complete  
9 information as required by items (1) to (6), inclusive, (8), and (9)  
10 of subdivision (a) and the employee cannot promptly and easily  
11 determine from the wage statement alone one or more of the  
12 following:

13 (i) The amount of the gross wages and net wages paid to the  
14 employee during the pay period and how those gross and net wages  
15 were determined by reference only to the information on the

16 itemized wage statement provided pursuant to items (2) to (4),  
17 inclusive, (6), and (9) of subdivision (a).

18 (ii) Which deductions the employer made from gross wages to  
19 determine the net wages paid to the employee during the pay  
20 period.

21 (iii) The name and address of the employer and, if the employer  
22 is a farm labor contractor, as defined in subdivision (b) of Section  
23 1682, the name and address of the legal entity that secured the  
24 services of the employer during the pay period.

25 (C) For purposes of this paragraph, “promptly and easily  
26 determine” means a reasonable person would be able to readily  
27 ascertain the information without reference to other documents or  
28 information.

29 (3) *For purposes of this subdivision, a “knowing and intentional*  
30 *failure” does not include an isolated and unintentional payroll*  
31 *error due to a clerical or inadvertent mistake. In reviewing for*  
32 *compliance with this section, the hearing officer or factfinder may*  
33 *consider as a relevant factor whether the employer, prior to an*  
34 *alleged violation, has adopted and is in compliance with a set of*  
35 *policies, procedures, and practices that fully comply with this*  
36 *section.*

37 (f) A failure by an employer to permit a current or former  
38 employee to inspect or copy records within the time set forth in  
39 subdivision (c) entitles the current or former employee or the Labor

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Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

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AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL No. 1255**

**Introduced by Senator Wright**

February 23, 2012

An act to amend Section 226 of the Labor Code, relating to employee compensation.

legislative counsel's digest

SB 1255, as amended, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among

other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement or fails to provide a wage statement showing the name of the employee and the last 4 digits of his or her social

98 security number or employee identification number. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount and manner in which the employer calculated *of the gross and net wages paid to the employee during the pay period and how those gross and net wages were determined by reference only to specified information on the itemized wage statement*, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, and the name and address of the employer or legal entity that secured the services of the employer, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

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SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying

the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and

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(9) all applicable hourly rates in effect during the pay period and

the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding *to exceed* an aggregate

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penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement or if the wage statement fails to comply with item (7) of subdivision (a).

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by items (1) to (6), inclusive, (8), and (9) of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone any *one or more* of the following:

(i) The amount of, and the manner in which the employer calculated, the gross wages and net wages paid to the employee during the pay period *and how those gross and net wages were determined by reference only to the information on the itemized wage statement provided pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).*

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period.

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(C) For purposes of this paragraph, "promptly and easily determine" means to *a reasonable person would* be able to readily ascertain *the information* without reference to other documents or information.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750)



penalty from the employer.

(g) The listing by an employer of the name and address of the legal entity that secured the services of the employer in the itemized statement required by subdivision (a) shall not create any liability on the part of that legal entity.

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(h) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(i) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

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**SENATE BILL**

**No. 1255**

**Introduced by Senator Wright**

February 23, 2012

An act to amend Section 226 of the Labor Code, relating to employee compensation.

**legislative counsel's digest**

SB 1255, as introduced, Wright. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last 4 digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not

exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement or fails to provide a wage statement showing the name of the employee and the last 4 digits of his or her social security number or employee identification number. The bill would also provide that an employee is deemed to suffer injury for that penalty

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if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount and manner in which the employer calculated the gross and net wages paid to the employee during the pay period, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, and the name and address of the employer or legal entity that secured the services of the employer, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 226 of the Labor Code is amended to  
2 read:

3 226. (a) Every employer shall, semimonthly or at the time of  
4 each payment of wages, furnish each of his or her employees,  
5 either as a detachable part of the check, draft, or voucher paying  
6 the employee's wages, or separately when wages are paid by  
7 personal check or cash, an accurate itemized statement in writing  
8 showing (1) gross wages earned, (2) total hours worked by the  
9 employee, except for any employee whose compensation is solely  
10 based on a salary and who is exempt from payment of overtime  
11 under subdivision (a) of Section 515 or any applicable order of  
12 the Industrial Welfare Commission, (3) the number of piece-rate  
13 units earned and any applicable piece rate if the employee is paid  
14 on a piece-rate basis, (4) all deductions, provided that all deductions  
15 made on written orders of the employee may be aggregated and  
16 shown as one item, (5) net wages earned, (6) the inclusive dates  
17 of the period for which the employee is paid, (7) the name of the  
18 employee and the last four digits of his or her social security  
19 number or an employee identification number other than a social  
20 security number, (8) the name and address of the legal entity that  
21 is the employer and, if the employer is a farm labor contractor, as  
22 defined in subdivision (b) of Section 1682, the name and address  
23 of the legal entity that secured the services of the employer, and  
24 (9) all applicable hourly rates in effect during the pay period and  
25 the corresponding number of hours worked at each hourly rate by  
26 the employee. The deductions made from payment of wages shall  
27 be recorded in ink or other indelible form, properly dated, showing

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**SB 1255**

1 the month, day, and year, and a copy of the statement and the  
2 record of the deductions shall be kept on file by the employer for  
3 at least three years at the place of employment or at a central  
4 location within the State of California.

5 (b) An employer that is required by this code or any regulation  
6 adopted pursuant to this code to keep the information required by  
7 subdivision (a) shall afford current and former employees the right  
8 to inspect or copy records pertaining to their employment, upon  
9 reasonable request to the employer. The employer may take  
10 reasonable steps to ensure the identity of a current or former  
11 employee. If the employer provides copies of the records, the actual  
12 cost of reproduction may be charged to the current or former  
13 employee.

14 (c) An employer who receives a written or oral request to inspect  
15 or copy records pursuant to subdivision (b) pertaining to a current  
16 or former employee shall comply with the request as soon as  
17 practicable, but no later than 21 calendar days from the date of the  
18 request. A violation of this subdivision is an infraction.  
19 Impossibility of performance, not caused by or a result of a  
20 violation of law, shall be an affirmative defense for an employer  
21 in any action alleging a violation of this subdivision. An employer  
22 may designate the person to whom a request under this subdivision  
23 will be made.

24 (d) This section does not apply to any employer of any person  
25 employed by the owner or occupant of a residential dwelling whose  
26 duties are incidental to the ownership, maintenance, or use of the  
27 dwelling, including the care and supervision of children, or whose  
28 duties are personal and not in the course of the trade, business,  
29 profession, or occupation of the owner or occupant.

30 (e) (1) An employee suffering injury as a result of a knowing  
31 and intentional failure by an employer to comply with subdivision  
32 (a) is entitled to recover the greater of all actual damages or fifty  
33 dollars (\$50) for the initial pay period in which a violation occurs  
34 and one hundred dollars (\$100) per employee for each violation  
35 in a subsequent pay period, not exceeding an aggregate penalty of  
36 four thousand dollars (\$4,000), and is entitled to an award of costs  
37 and reasonable attorney's fees.

38 (2) (A) *An employee is deemed to suffer injury for purposes of*  
39 *this subdivision if the employer fails to provide a wage statement*

**SB 1255**

1 *or if the wage statement fails to comply with item (7) of subdivision*  
2 *(a).*

3 *(B) An employee is deemed to suffer injury for purposes of this*  
4 *subdivision if the employer fails to provide accurate and complete*  
5 *information as required by items (1) to (6), inclusive, (8), and (9)*

6 of subdivision (a) and the employee cannot promptly and easily  
7 determine from the wage statement alone any of the following:

8 (i) The amount of, and the manner in which the employer  
9 calculated, the gross wages and net wages paid to the employee  
10 during the pay period.

11 (ii) Which deductions the employer made from gross wages to  
12 determine the net wages paid to the employee during the pay  
13 period.

14 (iii) The name and address of the employer and, if the employer  
15 is a farm labor contractor, as defined in subdivision (b) of Section  
16 1682, the name and address of the legal entity that secured the  
17 services of the employer during the pay period.

18 (C) For purposes of this paragraph, “promptly and easily  
19 determine” means to be able to readily ascertain without reference  
20 to other documents or information.

21 (f) A failure by an employer to permit a current or former  
22 employee to inspect or copy records within the time set forth in  
23 subdivision (c) entitles the current or former employee or the Labor  
24 Commissioner to recover a seven-hundred-fifty-dollar (\$750)  
25 penalty from the employer.

26 (g) The listing by an employer of the name and address of the  
27 legal entity that secured the services of the employer in the itemized  
28 statement required by subdivision (a) shall not create any liability  
29 on the part of that legal entity.

30 (h) An employee may also bring an action for injunctive relief  
31 to ensure compliance with this section, and is entitled to an award  
32 of costs and reasonable attorney’s fees.

33 (i) This section does not apply to the state, to any city, county,  
34 city and county, district, or to any other governmental entity, except  
35 that if the state or a city, county, city and county, district, or other  
36 governmental entity furnishes its employees with a check, draft,  
37 or voucher paying the employee’s wages, the state or a city, county,  
38 city and county, district, or other governmental entity shall use no  
39 more than the last four digits of the employee’s social security  
40 number or shall use an employee identification number other than

- 1 the social security number on the itemized statement provided with
- 2 the check, draft, or voucher.

**Part 2—Text of all Committee or Floor Analyses of bill (downloaded from CA Leg Counsel’s web site)**

BILL ANALYSIS

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| SENATE RULES COMMITTEE | SB 1255 |  
| Office of Senate Floor Analyses |  
| 1020 N Street, Suite 524 |  
| (916) 651-1520 Fax: (916) |  
| 327-4478 |  
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UNFINISHED BUSINESS

Bill No: SB 1255  
Author: Wright (D)  
Amended: 8/23/12  
Vote: 21

SENATE LABOR & INDUSTRIAL RELATIONS COMM : 4-0, 4/11/12  
AYES: Lieu, DeSaulnier, Leno, Yee  
NO VOTE RECORDED: Wyland, Padilla, Runner

SENATE JUDICIARY COMMITTEE : 4-1, 5/8/12  
AYES: Evans, Blakeslee, Corbett, Leno  
NOES: Harman

SENATE FLOOR : 25-12, 5/29/12  
AYES: Alquist, Calderon, Corbett, Correa, De León,  
DeSaulnier, Evans, Hancock, Hernandez, Kehoe, Leno, Lieu,  
Liu, Lowenthal, Negrete McLeod, Padilla, Pavley, Price,  
Rubio, Simitian, Steinberg, Vargas, Wolk, Wright, Yee  
NOES: Anderson, Blakeslee, Cannella, Dutton, Fuller,  
Gaines, Harman, Huff, La Malfa, Strickland, Walters,  
Wyland  
NO VOTE RECORDED: Berryhill, Emmerson, Runner

**10 3 12 Preliminary Legislative History: SB 1255 Ch. 843**  
**Please contact Mark Schacht to report errors at: email@markschacht.com**

ASSEMBLY FLOOR : 50-29, 8/27/12 - See last page for vote

SUBJECT : Employee compensation: itemized statements

SOURCE : California Rural Legal Assistance Foundation  
California Employment Lawyers Association

CONTINUED

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DIGEST : This bill provides a statutory definition of what constitutes suffering injury for purposes of recovering damages pursuant to the itemized wage statements requirements in current law.

Assembly Amendments (1) delete the provision that deems the employee to suffer injury where they cannot determine "how gross wages and net wages were determined," (2) clarify that nothing in this bill alters the ability of the employer to aggregate deductions consistent with the requirements of existing law, (3) Provide that an employee is also deemed to suffer injury where they cannot determine from the wage statement the name of the employee and only the last four digits of his or her social security numbers or employee identification number, (4) incorporate changes to Section 226 of the Labor Code proposed by AB 1744 and AB 2674, to be operative only if this bill and either or both of these bills are chaptered and became effective on or before January 1, 2013, and this bill is chaptered last, and (5) make other related and conforming changes.

ANALYSIS : Existing law requires every employer, semimonthly or at the time of each payment of wages, to provide each employee with an accurate itemized statement, in writing, that contains the following information:

Gross wages earned;  
Total hours worked by the employee (except salaried

exempt employees);  
Piece rate units earned and the applicable piece rate, if  
paid on a piece rate basis;  
All deductions;  
Net wages earned;  
Inclusive dates of the pay period;  
Name of the employee and the last four digits of his/her  
social security number or employee identification number;  
  
Name and address of the legal entity that is the employer  
and, if the employer is a farm labor contractor, the name  
and address of the legal entity that secured the services  
of the employer; and  
All applicable hourly rates during the pay period and the  
corresponding number of hours the employee worked at each  
hourly rate.

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Under existing law, an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with the itemized statement requirements is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

Additionally, existing law requires that employers keep for at least three years, and make available for inspection by current and former employees, a copy of the statements or records. Failure to comply with this requirement is subject to a civil penalty.

This bill provides a statutory definition of what constitutes "suffering injury" for purposes of recovering damages pursuant to the itemized statements requirements in

current law.

Specifically, this bill:

1. Provides that an employee is deemed to "suffer injury" if the employer fails to provide a wage statement.
2. Provides that an employee is deemed to "suffer injury" if the employer fails to provide accurate or complete information regarding the other specified items on the itemized wage statement and the employee cannot "promptly and easily" determine from the wage statement alone one or more of the following:
  - A. The amount of gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement, as specified.
  - B. Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. However, nothing in this provision alters the ability of the employer to aggregate deductions, as specified.

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- C. The name and address of the employer and, if a farm labor contractor, the name and address of the legal entity that secured the services of the employer during the pay period.
  - D. The name of the employee and only the last four digits of his or her social security number or an employee identification number.
1. Defines "promptly and easily" to mean a reasonable person would be able to readily ascertain the information



without reference to other documents or information.

2. Provides that a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. A fact finder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures and practices that fully comply with the requirement to provide accurate itemized wage statement.
3. Contains language to avoid a chaptering out conflict with two other pending bills that amend Labor Code Section 226.

Background and Recent Court Case Summaries

Beginning in 1943, Labor Code Section 226 has required that employers provide a detailed wage statement to their workers at the time they are paid showing specific information such as wages earned. Since its enactment, this code section has been amended several times to expand on the information that must be provided to employees through these itemized wage statements with the intent of providing the necessary information for the workers to be informed and able to ensure proper payment of wages for the work being performed. Currently, itemized wage statements must contain accurate information about nine critical payroll elements (outlined above) including hourly rates and total hours worked, among others.

To promote compliance with Labor Code Section 226, in 1976

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a provision was added to specify that workers who "suffer injury" as a result of a knowing and intentional violation of these requirements are entitled to recover damages. The interpretation of what constitutes "suffering injury,"

however, has been an issue of dispute in numerous court cases over the last several years.

Phillips v. Huntington Memorial Hospital - 2005 . At issue in this 2005 case were alleged violations of Labor Code Section 226(e) for Huntington's failure to provide accurate wage statements to their employees. The Judge in the case found that Huntington's paystubs did not violate law and no damages were due, however, the case was appealed and the decision reversed. The court of appeals determined that Huntington's pay stubs did violate law; however, they did not determine whether or not the violation was knowing and intentional. Among other things, the court concluded that:

"To adopt the hospital's position would turn a simple informational process into a mathematical hurdle for many employees?Employees should not be required to master 30 pay codes, identify which of numerous items on a pay stub should be used in determining gross wages and total hours worked, and be forced to calculate the correct amounts without the aid of backup data. Such a burden would defeat the purpose of section 226 - to provide employees with an easily read pay stub so they can ensure they have been fully compensated for all hours worked." ( Phillips v. Huntington Mem. Hosp ., 2005 Cal.App. Unpub. LEXIS 7880)

Jaimez v. Daiohs Usa, Inc. - 2010 . Similar to the previous, at issue in this case (among other things) was alleged failure by the employer to provide legally compliant paystubs. The employer argued that such a violation must establish "actual injury" arising from the receipt of inaccurate paystubs. In other words, if there was no actual loss of wages they did not believe they were in violation of the requirements of Labor Code Section 226.

In reaching their decision, the appeals court quoted two federal court cases ( Wang v. Chinese Daily News, Inc./Elliot v. Spherion Pacific Work, LLC ) which addressed the same issue and set a minimal standard for the requisite

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injury. Overall, it was decided that the purpose of the paystub requirement is that employees shouldn't have to engage in the discovery and mathematical computations to analyze the very information that the law requires. The court found that,

"While there must be some injury in order to recover damages, a very modest showing will suffice." Additionally, the decision stated that, "this lawsuit, and the difficulty and expense Jaimez has encountered in attempting to reconstruct time and pay records, may well be further evidence of the injury he has suffered." ( Jaimez v. Daiohs USA, Inc . , 2010 Cal. App.4th1286)

Defendant Daiohs requested review and depublication of the appellate court's decision by the California Supreme Court , the request was denied.

Price v. Starbucks Corporation - 2011 . In this case, the court of appeal took a rather different approach to the alleged failure by the employer to issue an accurate wage statement. Price alleged that he and the class he sought to represent were injured because they had been deprived of the requisite information on their wage statements which caused confusion and possible underpayment of wages due. According to the court, Price failed to allege an injury arising from the allegedly non-compliant wage statement. Further, the court found that Price was only speculating on the possible underpayment of wages due, which was not evident from the wage statements provided to the complaint. The court determined that,

"Price has not alleged a cognizable injury. The injury requirement in section 226, subdivision (e), cannot be satisfied simply if one of the nine itemized requirements in section 226, subdivision (a) is missing from a wage statement?Thus, the "deprivation of that information," standing alone is not cognizable injury." ( Price v. Starbucks Corp . , 2011 Cal. App.4th 1136)

Comments

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According to the Senate Labor and Industrial Relations Committee analysis, the remedy provided under Labor Code Section 226 was added specifically to help ensure compliance with the wage statement requirements. The information required to be provided in wage statements is necessary for workers to ensure that they are being fully compensated for their work. Given the contradictory and inconsistent interpretations of what constitutes "suffering injury" under Labor Code Section 226 in the various court cases that have been litigated in recent years, it is necessary to provide further clarity on the issue for purposes of recovering damages under this code section.

This bill provides a statutory definition clarifying that a worker is deemed to "suffer injury" if he/she is unable to readily and easily determine from the wage statement alone specific information such as the total gross and net wages, employers name and address or which deductions were taken. The author believes that this definition codifies a commonsense understanding of the term consistent with the legislative history of Labor Code Section 226, and provides the courts with an appropriate framework for addressing these issues in the future.

Prior Legislation

AB 243 (Alejo), Chapter 671, Statutes of 2011, requires an employer who is a farm labor contractor to disclose on the itemized statement furnished to employees the name and address of the legal entity that secured the employer's services.

AB 469 (Swanson), Chapter 655, Statutes of 2011, enacted the Wage Theft Prevention Act of 2011 and, among other things, made technical revisions to the wage statement

**10 3 12 Preliminary Legislative History: SB 1255 Ch. 843**  
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statute and was double-jointed to include the provisions of AB 243.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No  
Local: No

SUPPORT : (Verified 8/28/12)

California Rural Legal Assistance Foundation (co-source)

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California Employment Lawyers Association (co-source)  
California Labor Federation  
Employment Rights Project

ARGUMENTS IN SUPPORT : According to the author and proponents, some state and federal courts have adopted a very restrictive and erroneous interpretation of what constitutes "suffering injury" under Labor Code 226 regarding information needed to be provided on itemized statements. In many of those decisions, they argue, these courts found that there was no injury even though there was key payroll information either missing from, or reported incorrectly on, the workers' wage statements. Proponents argue that such an interpretation flouts the entire purpose of this provision, which is to ensure compliance so that workers can easily and adequately understand the breakdown and source of their pay.

Proponents contend that central to these decisions are two notions (1) that the injury requirement in this code section cannot be satisfied simply because one of the nine itemized requirements is missing from a wage statement, and (2) that there must be actual injury demonstrated (such as loss of wages) related to the missing/incorrect item in order to recover damages. In other words, proponents argue that these courts have erroneously interpreted the law to a point that a worker, who - on pay day- doesn't

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know whether he/she has been paid properly, is not enough to establish the suffering of injury.

On the other hand, according to proponents, other state and federal courts have taken a different approach and have analyzed "suffering injury" in a manner which is much closer to the legislative intent. The author and proponents believe that this bill is necessary to respond to these series of poorly reasoned court decisions which threaten effective public and private enforcement of, and compliance with, wage statement requirements. This bill would establish a statutory definition of what constitutes "suffering injury" which, according to the author, codifies a commonsense understanding of the term and provides courts with an appropriate framework for addressing these issues in the future.

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ASSEMBLY FLOOR : 50-29, 08/27/12

AYES: Alejo, Allen, Ammiano, Atkins, Beall, Block, Blumenfield, Bonilla, Bradford, Brownley, Buchanan, Butler, Charles Calderon, Campos, Carter, Cedillo, Davis, Dickinson, Eng, Feuer, Fong, Fuentes, Furutani, Galgiani, Gatto, Gordon, Hall, Hayashi, Roger Hernández, Hill, Hueso, Huffman, Lara, Bonnie Lowenthal, Ma, Mendoza, Mitchell, Monning, Pan, Perea, V. Manuel Pérez, Portantino, Skinner, Solorio, Swanson, Torres, Wieckowski, Williams, Yamada, John A. Pérez

NOES: Achadjian, Bill Berryhill, Conway, Cook, Donnelly, Fletcher, Beth Gaines, Garrick, Gorell, Grove, Hagman, Halderman, Harkey, Huber, Jeffries, Jones, Knight, Logue, Mansoor, Miller, Morrell, Nestande, Nielsen, Norby, Olsen, Silva, Smyth, Valadao, Wagner

NO VOTE RECORDED: Chesbro

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PQ:n 8/28/12 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

### **Part 3--Support and Opposition Letters**