



## Senate Bill 490

CHAIRMAN STEVEN BRADFORD  
2017-2018 Legislative Session

Myra Reddy | Professional Beauty Association | Government Affairs  
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## **SB 490**

SB 490 was introduced on February 16, 2017 by Chairman Steven Bradford. The legislation adds Section 204.11 to the California Labor Code, relating to employment. This bill authorizes beauty salon employees to be paid by commission if specified requirements are met. *The form of payment is optional. Salons are not required to pay by commission.*

### **The final amended text of the legislation is as follows:**

204.11. Commission wages paid to any employee who is licensed pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code) are due and payable at least twice during each calendar month on a day designated in advance by the employer as the regular payday.

For any employee who is licensed pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code), wages that are paid to that employee for providing services for which such a license is required, when paid as a percentage or a flat sum portion of the sums paid to the employer by the client recipient of such service, and for selling goods, constitute commissions, provided that the employee who is paid, in every pay period in which hours are worked, a regular base hourly rate of at least two times the state minimum wage rate for all hours worked in addition to commissions paid.

The employee and employer may agree to a commission in addition to the base hourly rate.

An employee may be compensated for rest and recovery periods at a rate of pay not less than the employee's regular base hourly rate.

### **NEW LAW**

SB 490 allows beauty salon employers and employees to agree to a percentage or flat sum commission in addition to a base hourly rate if the following requirements are met:

- 1) The employee is licensed pursuant to the Barbering and Cosmetology Act and is paid for providing services where a license is required
- 2) The employee's base hourly rate is at least two times the state minimum wage rate in addition to commissions paid; and
- 3) The employee's wages are paid at least twice during each calendar month on a day designated in advance by the employer as the regular payday.

## AS STATED

SB 490 will allow salons the **option** to legally compensate their employees via commission as long as the employee is also paid two times the state applicable minimum wage per hour. The business owner will pay the break times based upon the two times the minimum wage amount, which will lessen their paperwork/administrative burden when compared to piece rate compensation.

## EXAMPLE

The new section 204.11 allows a salon employer to enter into a pay agreement such as the following:

- Salon agrees to pay the employee an amount equal to two-times the state minimum wage for each hour worked. If, for example, the minimum wage is 11.00 per hour, the Salon must promise to pay the employees *at least* \$22.00 per hour.
- The Salon may also pay the employee an agreed commission for all services performed. The commission amount is *in addition* to the base hourly rate. For example, the Salon agrees to pay the employee a 20% commission for all services. If the employee works 8 hours and performs \$750 of services, her pay for the day would be: \$326. (\$176 hourly and \$150 in commission.)
- The employee's rest periods are included in the base hourly rate of two times the minimum wage of \$22 because the employee is on the clock for the two rest periods. The employer does not need to calculate rest periods separately or show them separately on the employee's wage statement. This means that the the employer avoids one of the most onerous and time consuming aspects of complying with the piece rate rules.
- It is important to note that the hourly pay and the commission are independent and must be shown separately on the wage statement as follows:
  - 8 hours @ \$22/hr = \$176
  - Commission @ 20% = \$150
- It is recommended that salon employers not describe the employee's pay as a straight commission with the intention of increasing the employee's hourly pay on any day that the employee does not earn 2 times the minimum wage. Such a practice likely does not satisfy the requirement that the employees be paid "a regular base hourly rate" of pay. Even if the math "works out" such an arrangement likely does not technically comply with the statute.

**VOTES AND STATUS**

<b>DATE</b>	<b>STATUS</b>	<b>VOTES</b>
10/15/17	SIGNED	
09/11/17	ENROLLED – SENT TO GOVERNOR	
09/05/17	SENATE FLOOR	PASS 40 – 0
08/31/17	ASSEMBLY FLOOR	PASS 74 – 0
06/28/17	ASSEMBLY APPROPRIATIONS	PASS 14 – 0
06/07/17	ASSEMBLY LABOR & EMPLOMENT	PASS 6 – 0
04/27/17	SENATE FLOOR	PASS 37 – 0
04/05/17	SENATE LABOR & INDUSTRIAL RELATIONS	PASS 5 – 0

**STATUS**

As of October 17, 2017 the bill has been signed into law by the Governor of California and chaptered by the Secretary of State.

**QUESTIONS**

Contact Myra Reddy at the Professional Beauty Association.  
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**SOURCE**

California Legislative Information

SB-490 Wages: Barbering and Cosmetology Act: licensees. (2017-2018)

TEXT

BILL ANAYLISIS

Site: [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201720180SB490](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB490)