WHAT IS PIECE-RATE COMPENSATION?

Piece-rate work is defined as, “Work paid for according to the number of units turned out.”
WHAT IS PIECE-RATE COMPENSATION?

A compensation plan which pays employees for:

• The number of pieces finished,
• The number of appointments made, or
• The number of procedures,

is based on a piece-rate, not a commission rate.

In the professional beauty industry, piece-rate applies to salon employees that are paid according to the number of services completed.
WHAT IS COMMISSION?

California Labor Code section 204.1 defines “commission wages” as:

“Compensation paid to any person for services rendered in the sale of such employer’s property or services and based proportionately upon the amount or value thereof.”
WHAT IS A COMMISSION?

Under current law, an employee earns a commission if

a. the employees is involved principally in selling a product or service, NOT making the product or rendering the service and

b. the amount of compensation earned is percentage of the price of the product or service.
DOES THE STATE OF CALIFORNIA CLASSIFY BEAUTY PROFESSIONALS EMPLOYED IN A SALON AS COMMISSION OR PIECE-RATE EMPLOYEES?

According to the Department of Industrial Relations, California currently classifies salon employees who are paid a percentage of the revenue generated by the services they provide as piece-rate workers.

The definitions described is based upon consultation with employment lawyers in California, and direct conversations with the state.

Please note this classification as piece-rate is not the result of AB1513, but rather is based on the California Labor Code and the courts decisions interpreting it.
WHAT NEW LAW DESCRIBES EMPLOYER COMPLIANCE FOR PIECE-RATE COMPENSATION?

In 2015, Assembly Bill 1513 passed. AB1513 adds section 226.2 to the California Labor Code, which applies to “employees who are compensated on a piece-rate basis for any work performed during a pay period.”

AB1513 establishes compensation and wage statement requirements for rest and recovery periods and “other nonproductive time” for piece-rate employees going forward from the effective date of the statute.

AB1513 defines and explains the legal requirements that are mandatory for an employer choosing to pay his or her employees on a piece-rate basis and it reflects decisions made by the California Court of Appeal in 2013.
WHEN DID THIS LAW GO INTO EFFECT?

Compliance in accordance with AB1513 went into effect

January 1, 2016
SALON EMPLOYEES TRADITIONALLY ARE PAID COMMISSION; WILL THE STATE RECOGNIZE THIS FORM OF COMPENSATION FOR THE BEAUTY INDUSTRY?

Upon legal consultation and direct conversations with the state, no.

A change to the Labor Code must occur before the State will legally define and traditional beauty industry compensations plan as commission based rather than piece-rate.

This change needs to occur through legislative action which will require the passage of a bill that adds a new section to the Labor Code for our industry.
UNTIL THE CLASSIFICATION ISSUE CAN BE MODIFIED THROUGH LEGISLATIVE ACTION,
WHAT SHOULD SALON OWNERS DO TO BE COMPLIANT WITH CALIFORNIA LABOR LAW?

Salon owners should become compliant with piece-rate compensation law

or

Determine a different form of legally accepted compensation to implement for their employees.
advancing our industry

THE BEAUTY INDUSTRY WAS UNAWARE OF THE CLASSIFICATION; WILL THE STATE MAKE AN EXCEPTION OR HOLD ON COMPLIANCE FOR PIECE-RATE COMPENSATION FOR OUR INDUSTRY?

Upon legal consultation and direct conversations with the state, NO
CAN AN EMPLOYEE SUE AN EMPLOYER FOR NOT COMPENSATING THE EMPLOYEE FOR NON-PRODUCTIVE TIME UNDER PIECE-RATE LAW EVEN IF THE EMPLOYER WAS UNAWARE OF THE PIECE-RATE CLASSIFICATION AND LAW?

Any employee (present or former) can sue any employer for failure to pay wages in accordance with California law.

Such claims can seek damages or restitution for a period of as much as four years prior to the filing of a lawsuit.

Claims for unpaid wages can include allegations that the employer failed to provide paid rest periods, failed to pay for non-productive time, and/or failed to pay overtime.
WHAT STEPS HAS PBA TAKEN TO ASSIST THE INDUSTRY?

PBA’s government affairs team has worked in California throughout the past year and done the following:

1. **Explained salon business practices** and how salon owners compensate practices and how salon owners compensate employees.

2. **Conducted several meetings** to discuss the legality and application of piece-rate compensation with the beauty industry.
WHAT STEPS HAS PBA TAKEN TO ASSIST THE INDUSTRY?

3. Spoken at several forums throughout the state to help educate salon owners,

4. Worked with the state to create approved language to be added to the Labor Code that will address the classification issue of salon employees,
The legislative change PBA is seeking is optional for salon employers, it is not mandatory. This optional form of commission is not a required form of compensation.

Our work is far from complete, we need salon industry support for the classification correction.

WHAT STEPS HAS PBA TAKEN TO ASSIST THE INDUSTRY?

5. Contracted a lobbyist to work through stakeholder meetings and secure a legislative sponsor for bill introduction in December 2016, and

6. Continued to work with the state to explain the impact of piece-rate compensation compliance on our industry
WHERE CAN I FIND MORE INFORMATION ABOUT PIECE-RATE COMPENSATION AND COMPLIANCE?

- AB1513 Power Point Presentation by Director Christine Baker
- State of California Department of Industrial Relations Piece-Rate Legislation Fact Sheet
- State of California Department of Industrial Relations Piece-Rate Legislation Frequently Asked Questions
WHO CAN I CONTACT WITH ADDITIONAL QUESTIONS?

- The Department of Industrial Relations
  AB1513@dir.ca.gov

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