



# Transportation Law Alert

**SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY**

**Transportation Alert—Amendment to California Wage Statement Law Places  
Piece Rate Trucking Companies at Risk**

California Governor Brown signed an amendment to California Labor Code § 226, the California statute that requires employers to post, among other things, the total hours worked by the employee, on their wage statements. The statute previously provided for a penalty of \$50 for the first violation and \$100 for each subsequent violation (up to a maximum of \$4,000 per employee), but required the employee to demonstrate that he or she was actually injured as a result of the employer's failure to include the hours worked on the wage statement. This new amendment effectively eliminates the requirement to show injury. The law now says that, if the hours worked are not listed on the wage statement and the employee cannot "promptly and easily" determine how many hours he worked from the wage statement alone, he is entitled to damages under the statute.

The effect of this amendment is at least two-fold. First, it removes one of the principal barriers to class certification of these claims. Under the prior law, trucking companies had been able to defeat class certification because each driver needed to demonstrate that they were injured as a result of the employer not posting his hours on his wage statement. The elimination of this requirement significantly increases the likelihood that a court could certify this claim.

Second, the simplicity of proving this claim may entice the plaintiffs' bar to file it as a stand-alone claim. For example, a trucking company that has 250 drivers would face \$1,000,000 in exposure, plus attorneys' fees. Even if the claims are packaged with more traditional claims, like minimum wage violations, the exposure to trucking companies on the wage statement claim will provide significant pressure to settle all the claims.

The changes go into effect on January 1, 2013. Every employer should review its itemized wage statements before the end of the year to ensure they include all of the required information. For additional information please contact Jim Hanson at 317-637-1777 or Adam Smedstad at 312-255-7200.