

A “New Look” for Salon Employee Commission Arrangements in California

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By [Nikolas T. Djordjevski](#)



A new addition to California law changes the definition of commission pay for licensed employees of beauty salons and barber shops. Under the new law, certain common arrangements, such as agreements to pay stylists on a commission-only basis or on a minimum wage plus commissions basis, are no longer considered to be commission-based pay.

A new addition to California law changes the definition of commission pay for licensed employees of beauty salons and barber shops. Under the new law, certain common arrangements, such as agreements to pay stylists on a commission-only basis or on a minimum wage plus commissions basis, are no longer considered to be commission-based pay.

California Senate Bill 490 (SB 490) adds Section 204.11 to the California Labor Code. In short, the new law specifies that wages paid to employees who are licensed and paid to provide services pursuant to the Barbering and Cosmetology Act qualify as commissions (either as a percentage or a flat rate), only if the following requirements are met:

the employee's base hourly rate is at least two times the state minimum wage in addition to commissions paid; and
the employee's wages are paid at least twice during each calendar month on days designated in advance by the employer as regular paydays.

Thus, with the state minimum wage at \$10.50, a stylist would have to be paid a base hourly rate of at least \$21.00 in order for incentive pay to qualify as "commissions." This rate will increase as the state's minimum wage rate increases each year. Further, employers must pay this hourly rate of pay for all compensable hours worked, including the stylists' nonproductive time, rest breaks, and recovery breaks.

Salons are not required to pay employees in this manner. However, if the above two criteria are not met, then the incentive pay does not qualify as "commissions" and it may instead be deemed "piece rate" compensation subject to the requirements of Labor Code Section 226.2

[Piece rate pay in California](#) can be complicated due to special requirements relating to payment for rest breaks, nonproductive time, and overtime, as well as cumbersome requirements relating to data displayed on pay stubs. Piece rate pay also comes with its own troubles unique to the beauty salon industry, since stylists often sell products or services while also performing services. This creates issues with accurately calculating working hours and payment. In addition, piece-rate compensation has numerous other requirements, which may make it an unattractive option to many businesses.

Alternatively, stylists can simply be paid a flat hourly rate with no incentive pay. (Note that this would not change the requirement to pay employees for nonproductive time, rest breaks, and recovery breaks at the employee's hourly rate.)

As a result of the new law, some salon owners may contemplate traditional booth rental arrangements. However, such arrangements, if not properly implemented, may lead to litigation arising out of the potential misclassification of stylists as independent contractors.

For salons that do elect to pay commissions to their employees, it is imperative to have written commission agreements in place that are in conformity with all applicable laws.

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