

AB 281 (SALAS) LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2001: PENALTIES SUPPORT



Association of California Egg Farmers



CALIFORNIA HOSPITAL ASSOCIATION



California Seed Association



NORTH ORANGE COUNTY CHAMBER



Camarillo Chamber of Commerce



April 27, 2017

The Honorable Rudy Salas
California State Assembly
State Capitol, Room 4016
Sacramento, CA 95814

**SUBJECT: AB 281 (SALAS) LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004:
PENALTIES
SUPPORT**

The California Chamber of Commerce and the organizations listed below are pleased to **SUPPORT** your **AB 281 (Salas)**, as amended April 26, 2017, which will provide employers with a reasonable opportunity to cure an alleged violation before being subject to costly and frivolous litigation under the Labor Code Private Attorneys General Act (PAGA).

California has some of the most onerous and complex labor laws in the country. This complexity is exemplified by PAGA, which essentially allows an individual to pursue a “representative action” on behalf of similarly aggrieved employees against an employer for almost any Labor Code violation. PAGA requires a \$100 penalty per employee, per pay period for the first violation, and \$200 per employee, per pay period for each subsequent pay period. If there are multiple Labor Code violations, then these penalties are stacked. In addition, if the employee recovers any dollar amount, the employee is entitled to attorney’s fees, which adds another layer of cost onto the employer.

With this statutory scheme, one unintentional and minor violation of the Labor Code can result in the threat of financially devastating civil litigation against an employer, which the plaintiff’s bar has utilized to leverage quick monetary settlements. Last year, the Labor and Workforce Development Agency (LWDA) indicated in a budget change proposal that it receives over 6000 PAGA notices a year. While not all of those notices result in an actual civil complaint being filed, a significant portion is leveraged for quick settlements from employers with the threat of costly litigation and/or actual civil litigation if a settlement is not reached.

AB 281 would mitigate this financial threat of frivolous litigation by allowing an employer 65 days in which to cure a limited list of alleged violations before a plaintiff can pursue civil litigation, instead of current law that only provides 33 days. This is beneficial to both the employer and employee. For the employer, it eliminates the threat of costly civil litigation for an unintentional error for which it was not aware. For the employee, it provides an efficient remedy to an alleged violation. Notably, **AB 281** only impacts a PAGA claim. For many of the Labor Code violations, there would still be an individual private right of action for an employee to pursue for the alleged violation. **AB 281** creates a balance between protecting employees and their rights under the Labor Code while also protecting employers from financially devastating litigation over alleged minor violations.

For these reasons, we are pleased to **SUPPORT** your **AB 281**.

Sincerely,

California Chamber of Commerce
Almond Alliance of California
American Insurance Association
Associated General Contractors
Association of California Egg Farmers
California Ambulance Association
California Association of Wheat Growers
California Farm Bureau Federation
California Framing Contractors Association
California Grain and Feed Association
California Hospital Association

California Hotel and Lodging Association
California Manufacturers and Technology Association
California Pear Growers Association
California Professional Association of Specialty Contractors
California Restaurant Association
California Retailers Association
California Seed Association
California Ski Industry Association
California State Floral Association
California Travel Association
California Trucking Association
California Warehouse Association
Camarillo Chamber of Commerce
Cerritos Regional Chamber of Commerce
Citizens Against Lawsuit Abuse
Civil Justice Association of California
Culver City Chamber of Commerce
Family Business Association of California
Gateway Chambers Alliance
Greater Bakersfield Chamber of Commerce
League of California Cities
Murrieta Chamber of Commerce
National Federation of Independent Business
North Orange County Chamber of Commerce
Oceanside Chamber of Commerce
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce & Visitors Bureau
Pacific Egg & Poultry Association
San Gabriel Valley Economic Partnership
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Valley Industry and Commerce Association
Western Growers Association
Wine Institute

cc: District Office, The Honorable Rudy Salas
Camille Wagner, Office of the Governor