

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1592
Economic Matters

(Delegate Moe, *et al.*)

Labor and Employment - Adults - Mandatory Rest Period

This bill requires the Department of Labor, Licensing, and Regulation (DLLR) to adopt regulations by October 1, 2006 to establish and safeguard a mandatory work rest period. An employer may not require an employee to work during any rest period mandated by the regulations. The regulations may permit an employee to receive no more than a 10-minute rest period for every consecutive four-hour work period. The regulations do not apply to an employee for whom a collective bargaining agreement establishes a rest period, nor do the regulations apply to a minor.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: The impact on State expenditures and employee work productivity cannot be reliably estimated at this time as it would depend on the regulations adopted by DLLR and the current practice of each State agency regarding rest periods.

Local Effect: The impact on local government expenditures and employee work productivity cannot be reliably estimated at this time as it would depend on the regulations adopted by DLLR and the current practice of each local government regarding rest periods.

Small Business Effect: Potential meaningful depending on the regulations adopted by DLLR and the current practice of small businesses regarding rest periods.

Analysis

Current Law: Minors may not be employed for more than five consecutive hours without a nonworking period of at least one-half hour.

Federal laws pertaining to work hours are enforced by the Wage and Hour Division of the U.S. Department of Labor's Employment Standard Administration. The Wage and Hour Division enforces federal minimum wage, overtime pay, recordkeeping, and child labor requirements of the Fair Labor Standards Act and the labor requirements of various federal laws. Federal regulations require that employees be completely relieved from duty for the purposes of eating regular meals. Bona fide meal periods do not include coffee breaks or time for snack which are considered rest periods. According to the regulations, the rest periods of short duration, running from 5 to 20 minutes, are common in industry. Even though they are not required, if an employer permits its employees to take breaks, it must be counted as hours worked. This includes short periods the employees are allowed to spend away from the work site for any reason, for example: smoke breaks, restroom breaks, personal telephone calls or visits, or to get coffee or soft drinks. Rest periods are customarily paid for as work time.

Background: Other states have varying laws pertaining to minimum paid rest periods for adult employees in the private sector as shown in **Appendix 1**.

The bill requires that the regulations may permit an employee to receive not more than a 10-minute rest period for every consecutive four-hour work period. DLLR advises that this restriction can be contrary to certain industry occupational and health standards for hot jobs and heat stress environments where workers may be required to take more frequent breaks to prevent heat cramps, heat exhaustion, and heat stroke.

State Fiscal Effect: The extent of any impact to the State of providing employees with rest periods would depend on the regulations adopted by DLLR and the current practice of different State agencies. The Maryland Judiciary advises that it currently provides its employees two 10-minute breaks during the workday. The Maryland Department of Transportation (MDOT) advises that breaks could potentially create burdens on staffing levels, especially in jobs that interact with the public, such as MVA customer service. The Department of Legislative Services has no formal break policy, but supervisors may permit an informal break as workload permits. It should also be noted that providing employees with periodic rest periods could also increase worker productivity; however, such increased productivity cannot be reliably estimated at this time.

DLLR advises that it would require one full-time investigator to handle future complaints and one half-time assistant Attorney General for enforcement of the established regulations. Legislative Services asserts that DLLR could adopt the required regulations

utilizing existing budgeted resources. Additionally, without any actual experience related to future complaint volume, the need for one full-time position is not justified. To the extent that future complaints warrant a new position, DLLR could request that position through the normal budgetary process.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Labor, Licensing, and Regulation; Department of Budget and Management; Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2006
nas/ljm

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Appendix 1 Minimum Paid Rest Periods for Adult Employees

<u>State</u> ¹	<u>Basic Standard</u>	<u>Prescribed By</u>	<u>Coverage</u> ²	<u>Comments</u>
California	Paid 10-minute rest period for each 4 hours worked or major fraction thereof, as practicable, in middle of each work period. Not required for employees whose total daily work time is less than 3.5 hours.	Administratively issued Industrial Welfare Commission Orders	Excludes professional actors, shepherders under Agricultural Occupations Order, and personal attendants under Household Occupations Order.	Under all orders, except for private household employment, Division of Labor Standards Enforcement may grant exemption upon employer application on the basis of undue hardship.
Colorado	Paid 10-minute rest period for each 4-hour work period or major fraction thereof, as practicable, in middle of each work period.	Administratively issued Wage Order for seven industries	Applicable to retail trade, food and beverage, public housekeeping, medical profession, beauty service, laundry and dry cleaning, and janitorial service industries.	
Illinois	Hotel room attendants must receive a minimum of two 15-minute paid rest breaks when working at least 7 hours.	Statute	Applies to an establishment located in a county with a population greater than 3 million.	Employees may not be required to work during a break period.
Kentucky	Paid 10-minute rest period for each 4-hour work period.	Statute	Excludes employees under the Federal Railway Labor Act.	Rest period must be in addition to regularly scheduled meal period.
Minnesota	Paid adequate rest period within each 4 consecutive hours of work.	Statute	Excludes certain agricultural and seasonal employees.	Different rest breaks permitted if pursuant to a collective bargaining agreement.

<u>State</u> ¹	<u>Basic Standard</u>	<u>Prescribed By</u>	<u>Coverage</u> ²	<u>Comments</u>
Nevada	Paid 10-minute rest period for each 4 hours worked or major fraction thereof, as practicable, in middle of each work period. Not required for employees whose total daily work time is less than 3.5 hours.	Statute	Applicable to employers of two or more employees at a particular place of employment. Excludes employees covered by a collective bargaining agreement.	Labor Commissioner may grant exemption on employer evidence of business necessity.
Oregon	Paid 10-minute rest period for every 4-hour segment or major portion thereof in one work period, as feasible, approximately in middle of each segment of work period.	Administratively issued Wage and Hour Commission rules	Applicable to every employer, except in agriculture and except employees covered by a collective bargaining agreement.	Rest period must be in addition to usual meal period and taken separately.
Washington	Paid 10-minute rest period for each 4-hour work period, scheduled as near as possible to midpoint of each work period. Employee may not be required to work more than 3 hours without a rest period.	Administrative regulation	Excludes newspaper vendor or carrier, domestic or casual labor around private residence, sheltered workshop, and agricultural labor. ³	Scheduled rest periods not required where nature of work allows employee to take intermittent rest periods equivalent to required standard.

¹States not listed do not require paid rest periods. All of the seven states with paid rest period requirements also have meal period requirements.

²Not displayed in table are exemptions for executive, administrative, and professional employees and for outside salespersons.

³Washington State: Although agricultural labor is excluded from the listed requirement of general application, a separate regulation requires a paid 10-minute rest period in each 4-hour period of agricultural employment.

Source: U.S. Department of Labor, January 2006