

HOUSE BILL 1058

K3

71r2110

By: **Delegates Manno, Barkley, Barnes, Benson, Bronrott, Burns, Cane, Conaway, Gaines, Gutierrez, Guzzone, Harrison, Healey, Heller, Hixson, Holmes, Howard, Hubbard, Hucker, Ivey, James, Kaiser, Kirk, Kullen, Lawton, Lee, Levi, McHale, Mizeur, Montgomery, Niemann, Olszewski, Pena-Melnyk, Ramirez, Rice, Rosenberg, Ross, Schuler, Tarrant, Taylor, Valderrama, Vaughn, and Waldstreicher**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Meal Periods**

3 FOR the purpose of requiring an employer to provide a one-half hour nonworking or
4 working meal period to an employee under certain circumstances; providing
5 that a certain meal period count towards an employee's work hours for a certain
6 day; authorizing health care industry employees to waive a certain meal period
7 under certain circumstances; requiring employers to provide a certain place to
8 eat during a certain meal period; requiring an employer to pay a certain amount
9 to an employee under certain circumstances; authorizing certain civil actions
10 under certain circumstances; authorizing certain remedies under certain
11 circumstances; authorizing a court to award certain attorney's fees and costs
12 under certain circumstances; providing a certain exception; defining a certain
13 term; and generally relating to meal periods for employees in the State.

14 BY adding to

15 Article – Labor and Employment

16 Section 3-710

17 Annotated Code of Maryland

18 (1999 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Labor and Employment**

4 **3-710.**

5 (A) IN THIS SECTION, “EMPLOYER” MEANS:

6 (1) A PERSON ENGAGED IN A BUSINESS, INDUSTRY, PROFESSION,
7 TRADE, OR OTHER ENTERPRISE IN THE STATE;

8 (2) THE STATE;

9 (3) A COUNTY; AND

10 (4) A MUNICIPAL CORPORATION IN THE STATE.

11 (B) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE COVERED BY A
12 COLLECTIVE BARGAINING AGREEMENT THAT INCLUDES MANDATORY MEAL
13 PERIODS.

14 (C) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
15 PARAGRAPH, EACH EMPLOYER MAY NOT EMPLOY AN EMPLOYEE FOR MORE
16 THAN 5 CONSECUTIVE HOURS WITHOUT PROVIDING A NONWORKING MEAL
17 PERIOD OF AT LEAST ONE-HALF HOUR.

18 (II) IF AN EMPLOYEE’S WORK HOURS FOR A CALENDAR DAY
19 DO NOT EXCEED 6 CONSECUTIVE HOURS, THE PROVISIONS OF SUBPARAGRAPH
20 (I) OF THIS PARAGRAPH MAY BE WAIVED BY MUTUAL CONSENT OF THE
21 EMPLOYER AND EMPLOYEE.

22 (2) THE MEAL PERIOD REQUIRED UNDER PARAGRAPH (1) OF
23 THIS SUBSECTION MAY BE CONSIDERED A WORKING MEAL PERIOD IF:

24 (I) THE TYPE OF WORK PREVENTS AN EMPLOYEE FROM
25 BEING RELIEVED OF WORK DURING THE NONWORKING MEAL PERIOD; AND

26 (II) THE EMPLOYER AND EMPLOYEE AGREE IN WRITING TO
27 THE WORKING MEAL PERIOD.

1 **(3) A WORKING MEAL PERIOD AGREED TO UNDER PARAGRAPH (2)**
2 **OF THIS SUBSECTION SHALL BE COUNTED TOWARDS AN EMPLOYEE'S WORK**
3 **HOURS FOR A CALENDAR DAY.**

4 **(4) AN EMPLOYEE MAY REVOKE IN WRITING THE WRITTEN**
5 **AGREEMENT PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION.**

6 **(D) (1) HEALTH CARE INDUSTRY EMPLOYEES WITH WORK HOURS**
7 **EXCEEDING 8 CONSECUTIVE HOURS IN A CALENDAR DAY MAY WAIVE THEIR**
8 **RIGHT TO A MEAL PERIOD PROVIDED UNDER SUBSECTION (C) OF THIS SECTION**
9 **IF:**

10 **(I) THE EMPLOYER AND EMPLOYEE MUTUALLY AGREE TO**
11 **WAIVE ONE MEAL PERIOD; AND**

12 **(II) THE AGREEMENT IS IN WRITING.**

13 **(2) THE WRITTEN AGREEMENT PROVIDED UNDER PARAGRAPH**
14 **(1)(II) OF THIS SUBSECTION MAY BE REVOKED IN WRITING BY THE EMPLOYEE.**

15 **(3) THE WRITTEN AGREEMENT PROVIDED UNDER PARAGRAPH (2)**
16 **OF THIS SUBSECTION SHALL BE GIVEN TO THE EMPLOYER 1 DAY BEFORE THE**
17 **NOTICE TAKES EFFECT.**

18 **(E) EACH EMPLOYER SUBJECT TO THIS SECTION SHALL PROVIDE A**
19 **SUITABLE PLACE FOR EMPLOYEES TO EAT DURING A MEAL PERIOD.**

20 **(F) IF AN EMPLOYER FAILS TO PROVIDE AN EMPLOYEE WITH A MEAL**
21 **PERIOD AS PROVIDED IN THIS SECTION, THE EMPLOYER SHALL PAY THE**
22 **EMPLOYEE FOR 1 HOUR OF THE USUAL HOURLY WAGE FOR EACH CALENDAR**
23 **DAY THAT A MEAL PERIOD IS NOT PROVIDED.**

24 **(G) (1) IF AN EMPLOYER VIOLATES THIS SECTION, THE EMPLOYEE**
25 **MAY BRING A CIVIL ACTION AGAINST THE EMPLOYER IN A CIRCUIT COURT.**

26 **(2) THE EMPLOYEE SHALL BE ENTITLED TO ANY REMEDIES**
27 **AVAILABLE AT LAW OR IN EQUITY APPROPRIATE TO REMEDY ANY VIOLATION OF**
28 **THIS SECTION, INCLUDING BACK PAY OR INJUNCTIVE RELIEF.**

1 **(H) THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND**
2 **COSTS TO AN EMPLOYEE WHO PREVAILS IN AN ENFORCEMENT ACTION UNDER**
3 **THIS SECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2007.