

HOUSE BILL 654

K3
HB 1058/07 – ECM

8lr0787

By: **Delegates Manno, Ali, Barkley, Barnes, Benson, Bobo, Bronrott, Carr, Dumais, Frush, Gaines, Gilchrist, Gutierrez, Hecht, Heller, Hixson, Holmes, Huckler, Ivey, Kullen, Lee, Levi, Love, Mizeur, Montgomery, Niemann, Pena-Melnyk, Ramirez, Reznik, Ross, Tarrant, Taylor, F. Turner, V. Turner, Valderrama, Vaughn, and Waldstreicher**

Introduced and read first time: February 1, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Shift Breaks**

3 FOR the purpose of requiring an employer to provide a certain nonworking or working
4 shift break to an employee under certain circumstances; requiring that a certain
5 shift break count towards an employee's work hours for a certain day; providing
6 that during a certain shift break an employee shall hold the employer harmless
7 against any and all claims and indemnify the employer under certain
8 circumstances; requiring an employer to pay a certain amount to an employee
9 under certain circumstances; authorizing certain civil actions under certain
10 circumstances; authorizing certain remedies under certain circumstances;
11 authorizing a court to award certain attorney's fees and costs under certain
12 circumstances; providing a certain exception; defining a certain term; and
13 generally relating to shift breaks for employees.

14 BY adding to

15 Article – Labor and Employment

16 Section 3–710

17 Annotated Code of Maryland

18 (1999 Replacement Volume and 2007 Supplement)

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

21 **Article – Labor and Employment**

22 **3–710.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) **IN THIS SECTION, “EMPLOYER” MEANS A PERSON ENGAGED IN A**
2 **BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE**
3 **STATE THAT HAS AT LEAST 50 EMPLOYEES.**

4 (B) **THIS SECTION DOES NOT APPLY TO:**

5 (1) **AN EMPLOYEE COVERED BY A COLLECTIVE BARGAINING**
6 **AGREEMENT THAT INCLUDES SHIFT BREAKS GREATER THAN THOSE PROVIDED**
7 **UNDER THIS SECTION; OR**

8 (2) **A PERSON LICENSED BY:**

9 (I) **THE DEVELOPMENTAL DISABILITIES ADMINISTRATION**
10 **OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

11 (II) **THE MENTAL HYGIENE ADMINISTRATION OF THE**
12 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

13 (III) **THE DEPARTMENT OF HUMAN RESOURCES; OR**

14 (IV) **THE DEPARTMENT OF JUVENILE SERVICES.**

15 (C) (1) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
16 **PARAGRAPH, AN EMPLOYER MAY NOT EMPLOY AN EMPLOYEE FOR:**

17 1. **MORE THAN 5 CONSECUTIVE HOURS WITHOUT**
18 **PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 30 MINUTES; OR**

19 2. **UP TO 6 CONSECUTIVE HOURS WITHOUT**
20 **PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 15 MINUTES.**

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

25 (2) **THE SHIFT BREAK REQUIRED UNDER PARAGRAPH (1) OF THIS**
26 **SUBSECTION MAY BE CONSIDERED A WORKING SHIFT BREAK IF:**

27 (I) 1. **THE TYPE OF WORK PREVENTS AN EMPLOYEE**
28 **FROM BEING RELIEVED OF WORK DURING THE NONWORKING SHIFT BREAK; OR**

1 **2. THE EMPLOYEE IS ALLOWED TO CONSUME A MEAL**
2 **WHILE WORKING AND THE WORKING SHIFT BREAK IS COUNTED TOWARDS THE**
3 **EMPLOYEE’S WORK HOURS; AND**

4 **(II) THE EMPLOYER AND EMPLOYEE AGREE IN WRITING TO**
5 **THE WORKING SHIFT BREAK.**

6 **(D) DURING A NONWORKING SHIFT BREAK, AN EMPLOYEE AGREES TO:**

7 **(1) HOLD THE EMPLOYER HARMLESS AGAINST ANY AND ALL**
8 **CLAIMS; AND**

9 **(2) INDEMNIFY THE EMPLOYER FOR ANY LIABILITY ARISING**
10 **FROM ANY ACTIONS TAKEN BY THE EMPLOYEE DURING THE SHIFT BREAK.**

11 **(E) (1) IF AN EMPLOYER VIOLATES THIS SECTION, THE EMPLOYEE**
12 **MAY BRING A CIVIL ACTION AGAINST THE EMPLOYER IN A CIRCUIT COURT.**

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

16 **(3) THE COURT SHALL AWARD REASONABLE ATTORNEY’S FEES**
17 **AND COSTS TO AN EMPLOYEE WHO PREVAILS IN AN ENFORCEMENT ACTION**
18 **UNDER THIS SECTION.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2008.