

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 654
Economic Matters

(Delegate Manno, *et al.*)

Labor and Employment - Shift Breaks

This bill requires an employer to provide a nonworking shift break of at least 30 minutes to each employee who works more than five consecutive hours or provide a nonworking shift break of at least 15 minutes to each employee who works up to six consecutive hours. These provisions may be waived by mutual consent for employees who do not work more than six consecutive hours.

Requirements do not apply to employers with fewer than 50 employees, units of government, persons licensed by specified State agencies, or employees who are otherwise covered under collective bargaining agreements.

Fiscal Summary

State Effect: None. The bill does not establish authority for the Division of Labor and Industry to enforce the shift break requirements.

Local Effect: Potential increase in circuit court expenditures due to the bill's remediation provisions.

Small Business Effect: None.

Analysis

Bill Summary: A required shift break may be considered a working shift break if the type of work prevents an employee from being relieved of his or her duties. Alternatively, a break may be considered a working shift break if the employee is

allowed to consume a meal while working and the time is counted toward the employee's work hours. The employer and employee must agree in writing to this arrangement.

During a nonworking shift break, an employee must hold the employer harmless against any claim and indemnify the employer for any liability from the employee's actions during the shift break.

An employee may bring a civil action against an employer who fails to comply with provisions for nonworking shift breaks. An employee who prevails in an enforcement action in a circuit court may be entitled to back pay, injunctive relief, and/or reasonable attorney's fees.

Nonworking shift break requirements do not apply to persons licensed by the Developmental Disabilities Administration, Mental Hygiene Administration, Department of Human Resources, or Department of Juvenile Services.

Current Law: Federal regulations require that an employee be completely relieved from duty for the purposes of eating regular meals. Thirty minutes or more is a general standard for a meal period, but a shorter period may suffice under special conditions. The employee is not relieved if he or she is required to perform any duties, active or inactive, while eating. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period.

Maryland law does not specifically provide for a meal period; however, an individual younger than age 18 may not be employed for more than five consecutive hours without a nonworking period of at least one-half hour.

Background: Approximately 20 states have established minimum length of meal requirements. These requirements generally allow for a one-half hour meal period for employees who work a prescribed length of time. Several states require the meal period to be provided within a specific period of time during an employee's shift.

State Fiscal Effect: The Department of Labor, Licensing, and Regulation advises that the bill does not provide administrative authority or enforcement responsibility to the Division of Labor and Industry. Accordingly, as drafted, the bill would not materially affect the division's finances or operations.

Additional Information

Prior Introductions: A similar bill was introduced in the 2007 session as HB 1058/SB 585. HB 1058 was withdrawn after its hearing; SB 585 received an unfavorable report from the Senate Finance Committee.

Cross File: None.

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

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