

HOUSE BILL 16

K3
HB 654/08 – ECM

(PRE-FILED)

9lr0501
CF 9lr0502

By: **Delegate Manno**

Requested: August 19, 2008

Introduced and read first time: January 14, 2009

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; requiring
6 an employer to pay a certain amount to an employee under certain
7 circumstances; authorizing certain civil actions under certain circumstances;
8 authorizing certain remedies under certain circumstances; authorizing a court
9 to award certain attorney’s fees and costs under certain circumstances;
10 providing for certain exceptions; authorizing the Commissioner of Labor and
11 Industry to exempt, by regulation, certain employers from the provisions of this
12 Act; providing for the application of this Act; 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 (2008 Replacement Volume)

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.**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) “EMPLOYER” INCLUDES THE STATE AND A UNIT OF STATE**
2 **GOVERNMENT.**

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

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

7 **(2) AN EMPLOYER LICENSED OR APPROVED TO PROVIDE**
8 **SERVICES 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) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
16 **PARAGRAPH, AN EMPLOYER MAY NOT EMPLOY AN EMPLOYEE FOR:**

17 **1. 4 TO 6 CONSECUTIVE HOURS WITHOUT**
18 **PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 15 MINUTES; OR**

19 **2. MORE THAN 6 CONSECUTIVE HOURS WITHOUT**
20 **PROVIDING A NONWORKING SHIFT BREAK OF AT LEAST 30 MINUTES.**

21 **(II) 1. IF AN EMPLOYEE’S WORK HOURS DO NOT EXCEED**
22 **6 CONSECUTIVE HOURS, THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS**
23 **PARAGRAPH MAY BE WAIVED BY WRITTEN AGREEMENT BETWEEN THE**
24 **EMPLOYER AND EMPLOYEE.**

25 **2. AN EMPLOYER MAY NOT BE REQUIRED TO**
26 **PROVIDE A NONWORKING OR WORKING SHIFT BREAK IF THERE IS AN**
27 **EMERGENCY THAT POSES AN IMMEDIATE THREAT TO PUBLIC HEALTH OR**
28 **SAFETY.**

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

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

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

6 **(II) THE EMPLOYER AND EMPLOYEE MUTUALLY AGREE TO**
7 **THE WORKING SHIFT BREAK AND DOCUMENT THE AGREEMENT.**

8 **(D) (1) IF AN EMPLOYER VIOLATES THIS SECTION, THE EMPLOYEE**
9 **MAY BRING A CIVIL ACTION AGAINST THE EMPLOYER IN A CIRCUIT COURT.**

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

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

16 **(E) (1) THE COMMISSIONER MAY, BY REGULATION, EXEMPT DEFINED**
17 **CATEGORIES OF EMPLOYERS FROM THE PROVISIONS OF THIS SECTION.**

18 **(2) THE REGULATIONS SHALL ESTABLISH CRITERIA FOR**
19 **QUALIFICATION FOR AN EXEMPTION.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
21 **October 1, 2009.**