
A BILL FOR AN ACT

RELATING TO MEAL BREAKS FOR EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that chapter 390, Hawaii
2 Revised Statutes, has long protected the right of minors to an
3 interval of at least thirty consecutive minutes for a rest or
4 lunch period if they work for more than five consecutive hours.
5 Furthermore, the legislature finds that Act 172, Session Laws of
6 Hawaii 1999, made it illegal for an employer to prohibit an
7 employee from expressing breastmilk during any meal period or
8 other break period required by law. However, state or federal
9 wage and hour laws currently do not require employers to provide
10 employees over the age of sixteen with any meal or rest periods
11 no matter how many consecutive hours they might be required to
12 work. Employees who must work a full day or an eight-hour
13 shift, regardless of age or sex, should not be denied a
14 reasonable period of time to rest and consume a meal. Other
15 states such as California, Oregon, and Washington commonly
16 require these types of rest periods for all employees.



1 The purpose of this Act is to require employers to provide
2 scheduled meal breaks or rest periods for employees who work
3 more than five consecutive hours.

4 SECTION 2. Section 387-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§387-3 Maximum hours.** (a) No employer shall, except as
7 otherwise provided in this section, employ any employee for a
8 workweek longer than forty hours unless the employee receives
9 overtime compensation for the employee's employment in excess of
10 the hours above specified at a rate not less than one and one-
11 half times the regular rate at which the employee is employed.

12 For the purposes of this section,

13 (1) "Salary" means a predetermined wage, exclusive of the
14 reasonable cost of board, lodging, or other
15 facilities, at which an employee is employed each pay
16 period[+].

17 (2) If an employee performs two or more different kinds of
18 work for the same employer, the total earnings for all
19 such work for the pay period shall be considered to
20 have been earned for performing one kind of work.

21 (b) The regular rate of an employee who is employed on a
22 salary shall be computed as follows:



- 1 (1) If the employee is employed on a weekly salary, the
2 weekly salary and the reasonable cost of board,
3 lodging, or other facilities, if furnished to the
4 employee, shall be divided by forty.
- 5 (2) If the employee is employed on a biweekly salary, the
6 biweekly salary and the reasonable cost of board,
7 lodging, or other facilities, if furnished to the
8 employee, shall be divided by two and the quotient
9 divided by forty.
- 10 (3) If the employee is employed on a semi-monthly salary,
11 the semi-monthly salary and the reasonable cost of
12 board, lodging, or other facilities, if furnished to
13 the employee, shall be multiplied by twenty-four, the
14 product divided by fifty-two and the quotient divided
15 by forty.
- 16 (4) If the employee is employed on a monthly salary, the
17 monthly salary and the reasonable cost of board,
18 lodging, or other facilities if furnished to the
19 employee, shall be multiplied by twelve, the product
20 divided by fifty-two and the quotient divided by
21 forty.



1 (c) The regular rate of an employee who is employed on a
2 salary and in addition receives other wages such as, but not
3 limited to, commissions, bonus, piecework pay, and hourly or
4 daily pay shall be computed in the manner provided in this
5 subsection. As used hereinabove, the term "other wages" shall
6 not include the reasonable cost of board, lodging, or other
7 facilities.

8 (1) If the employee's salary and the reasonable cost of
9 board, lodging, or other facilities, if furnished to
10 the employee, equal or exceed fifty per cent of the
11 employee's total earnings for the pay period, the
12 total earnings shall be reduced to a regular rate in
13 the manner provided in paragraph (1), (2), (3), or (4)
14 of subsection (b), whichever is applicable.

15 (2) If the employee's salary and the reasonable cost of
16 board, lodging, or other facilities, if furnished to
17 the employee, are less than fifty per cent of the
18 employee's total earnings for the pay period, the
19 total earnings shall be reduced to a regular rate in
20 the manner provided in paragraph (1), (2), (3), or (4)
21 of subsection (b), whichever is applicable, except
22 that the actual number of hours worked in the workweek



1 shall be substituted for the final divisor of forty.
2 Such an employee shall receive overtime compensation
3 for employment in excess of forty hours in a workweek
4 at a rate not less than one-half times the employee's
5 regular rate.

6 (d) The regular rate of an employee whose compensation is
7 based on other than salary shall be computed in the manner
8 provided in paragraph (2) of subsection (c). The reasonable
9 cost of board, lodging, or other facilities, if furnished to the
10 employee, shall be included in computing the employee's regular
11 rate. Such an employee shall receive overtime compensation for
12 such employment in excess of forty hours in a workweek at a rate
13 not less than one-half times the employee's regular rate.

14 (e) An employer,

15 (1) Who is engaged in agriculture and in the first
16 processing of milk, buttermilk, whey, skim milk, or
17 cream into dairy products, or in the processing of
18 sugar cane molasses or sugar cane into sugar (but not
19 refined sugar) or into syrup, or in the first
20 processing of or in canning or packing any
21 agricultural or horticultural commodity, or in



- 1 handling, slaughtering, or dressing poultry or
2 livestock; or
- 3 (2) Who is engaged in agriculture and whose agricultural
4 products are processed by an employer who is engaged
5 in a seasonal pursuit or in processing, canning, or
6 packing operations referred to in paragraph (1); or
- 7 (3) Who is at any place of employment engaged primarily in
8 the first processing of, or in canning or packing
9 seasonal fresh fruits;
- 10 shall not be required to pay overtime compensation for hours in
11 excess of forty in a workweek to any of the employer's employees
12 during any of twenty different workweeks, as selected by the
13 employer, in any yearly period commencing July 1, for employment
14 in any place where the employer is so engaged. The employer,
15 however, shall pay overtime compensation for such employment in
16 excess of forty-eight hours in any such exempt workweek at the
17 rate and in the manner provided in subsections (a), (b), (c) and
18 (d), whichever is applicable, except that the word "forty-eight"
19 shall be substituted for the word "forty" wherever it appears in
20 subsections (b), (c), and (d).
- 21 (f) No employer shall employ any employee in split shifts
22 unless all of the shifts within a period of twenty-four hours



1 fall within a period of fourteen consecutive hours, except in
2 case of extraordinary emergency.

3 (g) No employee employed by an employer who employs fifty
4 or more employees shall be required to work more than five
5 continuous hours without a scheduled interval of at least thirty
6 minutes for a rest or bona fide meal period as defined in Title
7 29 Code of Federal Regulations Section 785.19, unless a
8 collective bargaining agreement otherwise contains express
9 provisions for employee meal breaks. This subsection shall not
10 apply to:

11 (1) Any employer who is the operator of a continuously
12 operating facility that is regulated by an
13 environmental permit; provided that an on-duty meal
14 period is provided; or

15 (2) An employer who is a motor carrier, as defined in
16 section 286-201.

17 [~~g~~] (h) This section shall not apply to any overtime
18 hours worked by an employee of an air carrier subject to Title
19 II of the Railway Labor Act, Title 45 [U.S.C. section] United
20 States Code Section 181 et seq.; provided such overtime hours
21 are the result of a voluntary agreement between employees to
22 exchange work time or days off."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2050.

4



Report Title:

Employee Meal Breaks

Description:

Prohibits an employer who employs fifty or more employees from requiring its employees to work more than five continuous hours without a scheduled rest or meal period, unless a collective bargaining agreement otherwise contains provisions for employee meal breaks. Exempts employers who are the operators of a continuously operating facility that is regulated by an environmental permit, if an on-duty meal period is provided, and employers who are motor carriers. Takes effect 7/1/2050. (SD1)

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