

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1757 Session of
2007

INTRODUCED BY GALLOWAY, BELFANTI, CRUZ, SOLOBAY, PARKER,
HARKINS, PETRONE, MAHONEY, CALTAGIRONE AND BRENNAN,
JULY 17, 2007

REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 17, 2007

AN ACT

1 Providing for employee meal periods and for powers and duties of
2 the Department of Labor and Industry; and imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Employee Meal
7 Period Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." The Department of Labor and Industry of the
13 Commonwealth.

14 "Employee." An employee as defined in the act of January 17,
15 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968.

16 "Employer." An employer as defined in the act of January 17,
17 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968.

1 "Secretary." The Secretary of Labor and Industry of the
2 Commonwealth.

3 Section 3. Meal period.

4 The following shall apply:

5 (1) No employee shall be required to work for seven and
6 one-half or more consecutive hours without a period of at
7 least 30 consecutive uninterrupted minutes for a meal period.
8 Such meal period shall be given after the first two hours of
9 work and before the last two hours of work.

10 (2) An employer shall not be required to pay the
11 employee for the time used as a meal period, except that
12 nothing in this act shall supersede any agreement or
13 arrangement in place on the effective date of this section in
14 which an employer pays the employee for meal periods.

15 (3) No employee shall be required to remain in a
16 workroom or at the employee's work station during the meal
17 period.

18 (4) Nothing in this act shall prevent any employee and
19 employer from entering into a written agreement providing for
20 meal periods in excess of those required by paragraph (1).

21 Section 4. Exemptions.

22 (1) The provisions of this act shall not be construed to
23 apply to employees for whom meal periods are established
24 through the collective bargaining process.

25 (2) Any employer who already provides 30 or more total
26 minutes of paid meal periods to employees within each seven
27 and one-half hour work period is exempt from the provisions
28 of this act.

29 (3) The secretary may exempt any employer from the
30 requirements of section 3(1) if any of the following apply:

(i) requiring compliance would be adverse to public safety;

(ii) the duties of a position may only be performed by one employee; or

(iii) the continuous nature of the employer's operation requires that employees be available to respond to urgent or unusual conditions at all times.

Exemptions under this paragraph shall be reviewed by the secretary on an annual basis.

Section 5. Enforcement.

The department shall be responsible for enforcing the provisions of this act and for investigating and, as necessary, acting upon alleged violations.

Section 6. Whistleblower protection.

An employee who makes a complaint or reports violations of this act by the employer to the department shall have the protections and remedies set forth in the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.

Section 7. Remedies and penalties.

The following shall apply:

(1) An employee may, within one year from the date of occurrence of the incident complained of, file a complaint, in writing, with the department.

(2) Whenever an employee files a complaint with the department, it shall be the duty of the department to immediately investigate the matter and determine whether or not there has been a violation of this act and whether such violation was intentional or otherwise. In any such investigation, the department shall provide for an appropriate hearing upon due notice to interested parties

1 including the employee, the employer and their respective
2 representative, if any.

3 (3) In the event it is determined, after notice and
4 hearing as required by this section, that an employer has
5 violated this act and that such failure was not intentional,
6 the employer shall be afforded a reasonable opportunity to
7 correct the matter in order to be in compliance with this
8 act.

9 (4) In the event it is determined, after notice and
10 hearing as required by this section, that an employer has
11 violated this act and that such failure was intentional, the
12 department shall levy an administrative fine on the employer.
13 The fine shall not be less than \$1,000 nor more than \$2,500
14 for each violation.

15 Section 8. Regulations.

16 The department shall promulgate rules and regulations
17 necessary to carry out the provisions of this act.

18 Section 9. Effective date.

19 This act shall take effect in 30 days.