

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1756 Session of
2007

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

REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 17, 2007

AN ACT

1 Providing for employee rest 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 Rest
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. Rest period.

4 The following shall apply:

5 (1) An employer shall provide a 15-minute uninterrupted
6 rest period for employees for each four consecutive hours of
7 work.

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

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

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

19 Section 4. Exemptions.

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

23 (2) Any employer who already provides a 15-minute rest
24 period to employees for each four hours worked is exempt from
25 the provisions of this act.

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

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

30 (ii) the duties of a position may only be performed

1 by one employee; or

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

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

7 Section 5. Enforcement.

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

11 Section 6. Whistleblower protection.

12 An employee who makes a complaint or reports violations of
13 this act by the employer to the department shall have the
14 protections and remedies set forth in the act of December 12,
15 1986 (P.L.1559, No.169), known as the Whistleblower Law.

16 Section 7. Remedies and penalties.

17 The following shall apply:

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

21 (2) Whenever an employee files a complaint with the
22 department, it shall be the duty of the department to
23 immediately investigate the matter and determine whether or
24 not there has been a violation of this act and whether such
25 violation was intentional or otherwise. In any such
26 investigation, the department shall provide for an
27 appropriate hearing upon due notice to interested parties
28 including the employee, the employer and their respective
29 representative, if any.

30 (3) In the event it is determined, after notice and

1 hearing as required by this section, that an employer has
2 violated this act and that such failure was not intentional,
3 the employer shall be afforded a reasonable opportunity to
4 correct the matter in order to be in compliance with this
5 act.

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

12 Section 8. Regulations.

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

15 Section 9. Effective date.

16 This act shall take effect in 30 days.