



Maryland Chamber of Commerce

**HB 16
OPPOSE
Economic
Matters
Committee
03/03/08**

Legislative Position

HB 16

Labor and Employment – Shift Breaks

Brief Summary of Bill:

HB 16 requires employers of 50 or more employees to provide a half-hour nonworking shift break after six consecutive hours of work, or a fifteen minute nonworking shift break where an employee works between four and six consecutive hours.

Maryland Chamber's Position:

This bill is clearly well-intentioned to ensure that employees receive appropriate rest periods. Despite this worthy objective, there are a number of problems with the implementation of this bill as currently drafted. Accordingly, the Maryland Chamber of Commerce opposes this legislation.

First, the supply and demand of talented workers creates an incentive for companies to provide reasonable breaks to employees (and in our experience, many businesses work with their employees in just this fashion). So, too, does the fact that corporations are run by human beings. This bill constitutes an unwarranted and unnecessary legislative intrusion into the employer-employee relationship. Proponents of the bill may argue that such breaks are legislated for minors. We note that minors, by their very status, are not as capable or as likely to assert themselves in the workplace. The law generally provides greater protections for minors, in the workplace and otherwise, than for adults.

Second, this legislation would not allow for flexibility in the workplace. For example, there may be times where a crisis in the workplace may require employees to work for longer than six consecutive hours without a break. This bill would subject employers who could not provide shift breaks on account of emergencies to civil lawsuits and damages. Similarly, the bill restricts employers and employees from mutually agreeing to work and break schedules that best suit their business and personal needs. With respect to 30 minute breaks, the only circumstance in which waiver of the break is permitted is where the employee's job prevents her from being relieved from work. Such an employee could consent to waive his/her break (if he/she was allowed to eat during her so-called "working break"). Any other employee would not have this right. As such,

employees who under current law may obtain their employers permission to work through lunch in order to leave early for personal reasons could no longer do so.

Third, the bill would impose additional administrative burdens and costs on employers. In order to ensure compliance with the law (and defend themselves if sued under the newly created civil action), employers would have to implement systems to substantiate that employees had taken the required breaks. Employers whose hourly workers punch a time clock could require employees to clock in and out to substantiate the break, but this process could, itself, extend the employee's time away from productive work. Some time clocks are remote from production lines. And, with regard to employees who would be considered exempt under the Fair Labor Standards Act and/or the Maryland Wage and Hour law, employers would be required to start keeping track of their hours. Under current federal and state law, no records of hours worked are required for exempt employees. This would constitute a significant burden for employers, particularly those with large numbers of exempt employees.

Fourth, we believe this legislation may constitute a disincentive for businesses to come to, or remain in, Maryland. Surrounding states do not impose this requirement on employers. There is no such law in the District of Columbia, Delaware, or Virginia. In Pennsylvania, such a requirement applies only to seasonal farm workers. West Virginia does provide a 20 minute meal break, but the employer has the discretion to schedule the break, and it only applies if no other meal break is provided. Companies are struggling to survive in the current economic downturn. Imposing additional and unnecessary regulations on firms that choose to do business in Maryland is wrongheaded.

Fifth, the legislation requires employees to waive any claims that could accrue during a nonworking shift break. This is contrary to other laws, such as workers' compensation law, which allows an employee to recover for injuries that occur in the workplace, regardless of whether the employee was on break or not at the time of the injury. Similarly, the requirement that an employee indemnify the employer for any actions taken during the break conflicts with existing laws, such as anti-discrimination laws. A supervisor who sexually harasses an employee during the supervisor's break would be required to indemnify the employer, should the employee file suit against the employer for harassment – contrary to how the law currently operates.

In summary, despite its good intentions, there would be numerous negative results that outweigh those positive intentions of this bill.

For these reasons, the Maryland Chamber respectfully requests that the Committee give House Bill 16 an unfavorable report.

If questions please contact Allyson Black, ablack@mdchamber.org