

# House File 24

HOUSE FILE \_\_\_\_\_  
BY HUNTER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act requiring employers to provide employees with meal periods  
2 and rest periods and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1627HH 83  
5 ak/rj/5

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1 1 Section 1. Section 84A.5, subsection 4, Code 2009, is  
1 2 amended to read as follows:  
1 3 4. The division of labor services is responsible for the  
1 4 administration of the laws of this state under chapters 88,  
1 5 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,  
1 6 and 94A, and section 85.68. The executive head of the  
1 7 division is the labor commissioner, appointed pursuant to  
1 8 section 91.2.

1 9 Sec. 2. NEW SECTION. 91F.1 MEAL AND REST PERIODS ==  
1 10 REQUIREMENTS.

1 11 1. DEFINITIONS:

1 12 a. "Employee" means a natural person who is employed in  
1 13 this state for wages by an employer.

1 14 b. "Employer" means a person, as defined in section 4.1,  
1 15 who in this state employs for wages a natural person. An  
1 16 employer does not include a client, patient, customer, or  
1 17 other person who obtains professional services from a licensed  
1 18 person who provides the services on a fee service basis or as  
1 19 an independent contractor.

1 20 2. An employer shall provide an employee with appropriate  
1 21 meal periods and appropriate rest periods.

1 22 a. An appropriate meal period shall be a period of not  
1 23 less than thirty minutes during an employee's work period in  
1 24 which an employee works at least seven hours. The meal period  
1 25 shall be taken between the second and fifth hours. If an  
1 26 employee works more than seven hours, the meal period shall be  
1 27 taken between the third and sixth hours.

1 28 b. An appropriate rest period shall be a paid period of  
1 29 not less than ten minutes during every consecutive four-hour  
1 30 period of work taken by an employee approximately in the  
1 31 middle of each four-hour period. The rest period is in  
1 32 addition to a meal period, if applicable, and shall not be  
1 33 added to a meal period or deducted from the work period to  
1 34 reduce the overall length of the total work period.

1 35 3. An employer is not required to pay for a meal period if  
2 1 an employee is free from work duties during the employee's  
2 2 entire meal period. An employee shall be paid for the meal  
2 3 period if any of the following occur:

2 4 a. The employee is required or allowed to remain on duty.

2 5 b. The employee is required to be on-call at the work  
2 6 premises or designated worksite to be available to return to  
2 7 duty even if the employee is not called back to duty.

2 8 c. The employee is called back to duty during the  
2 9 employee's meal period even though the employee is not usually  
2 10 on-call during the meal period.

2 11 Sec. 3. NEW SECTION. 91F.2 MEAL AND REST PERIODS ==  
2 12 EXEMPTIONS.

2 13 1. Meal and rest period requirements may be modified by  
2 14 the terms of a collective bargaining agreement if the  
2 15 collective bargaining agreement entered into by the employees  
2 16 prescribes specific terms concerning meal periods and rest  
2 17 periods.

2 18 2. Meal and rest period requirements apply to hourly paid  
2 19 and salary-paid employees. Management or employees involved  
2 20 in agricultural jobs are not required to have breaks or meal

2 21 breaks. For the purposes of this section, agricultural jobs  
2 22 do not include work in the production of seed, limited to  
2 23 removal of off-type plants and corn tassels and  
2 24 hand-pollinating during the months of June, July, and August  
2 25 by persons ages fourteen and older.

2 26 3. Meal period requirements may be waived when an employer  
2 27 can show that the ordinary nature and circumstance of the work  
2 28 prevented the employer from establishing and maintaining a  
2 29 regularly scheduled meal period. The circumstances in which  
2 30 the requirements may be waived are limited to the following:

2 31 a. The safety and health needs of employees, patients,  
2 32 clients, and the public.

2 33 b. The lack of other employees available to provide relief  
2 34 to an employee.

2 35 c. The cost involved in shutdown and startup of machinery  
3 1 in continuous operation of the industrial process.

3 2 d. The intermittent and unpredictable workflow not  
3 3 controlled by the employer or employee.

3 4 e. Unforeseeable equipment failures, emergencies, or acts  
3 5 of nature that require immediate and uninterrupted attention  
3 6 by an employee.

3 7 Sec. 4. NEW SECTION. 91F.3 CIVIL PENALTIES.

3 8 1. Any employer who violates the provisions of this  
3 9 chapter or the rules adopted pursuant to this chapter is  
3 10 subject to a civil money penalty of not more than one hundred  
3 11 dollars for each violation. The commissioner may recover the  
3 12 civil penalty according to subsections 2 through 5. Any civil  
3 13 penalty recovered shall be deposited in the general fund of  
3 14 the state.

3 15 2. The commissioner may propose that an employer be  
3 16 assessed a civil penalty by serving the employer with notice  
3 17 of such proposal in the same manner as an original notice is  
3 18 served under the rules of civil procedure. Upon service of  
3 19 such notice, the proposed assessment shall be treated as a  
3 20 contested case under chapter 17A. However, an employer must  
3 21 request a hearing within thirty days of being served.

3 22 3. If an employer does not request a hearing pursuant to  
3 23 subsection 2 or if the commissioner determines, after an  
3 24 appropriate hearing, that an employer is in violation of this  
3 25 chapter or the rules adopted pursuant to this chapter, the  
3 26 commissioner shall assess a civil penalty which is consistent  
3 27 with the provisions of subsection 1 and which is rendered with  
3 28 due consideration for the penalty amount in terms of the size  
3 29 of the employer's business, the gravity of the violation, the  
3 30 good faith of the employer, and the history of previous  
3 31 violations.

3 32 4. An employer may seek judicial review of any assessment  
3 33 rendered under subsection 3 by instituting proceedings for  
3 34 judicial review pursuant to chapter 17A. However, such  
3 35 proceedings must be instituted in the district court of the  
4 1 county in which the violation or one of the violations  
4 2 occurred and within thirty days of the day on which the  
4 3 employer was notified that an assessment has been rendered.  
4 4 Also, an employer may be required, at the discretion of the  
4 5 district court and upon instituting such proceedings, to  
4 6 deposit the amount assessed with the clerk of the district  
4 7 court. Any moneys so deposited shall either be returned to  
4 8 the employer or be forwarded to the commissioner for deposit  
4 9 in the general fund of the state, depending on the outcome of  
4 10 the judicial review, including any appeal to the supreme  
4 11 court.

4 12 5. After the time for seeking judicial review has expired  
4 13 or after all judicial review has been exhausted and the  
4 14 commissioner's assessment has been upheld, the commissioner  
4 15 shall request the attorney general to recover the assessed  
4 16 penalties in a civil action.

4 17 Sec. 5. NEW SECTION. 91F.4 DUTIES AND AUTHORITY OF  
4 18 COMMISSIONER.

4 19 1. The labor commissioner shall adopt rules to administer  
4 20 and enforce this chapter and shall provide further exemptions  
4 21 from the provisions in this chapter when reasonable.

4 22 2. In order to carry out the purposes of this chapter, the  
4 23 labor commissioner or the commissioner's designee, upon  
4 24 presenting appropriate credentials to the employer or agent of  
4 25 the employer, may do any of the following:

4 26 a. Inspect employment records relating to meal and rest  
4 27 periods for employees.

4 28 b. Interview an employer or an agent of the employer or  
4 29 employee, during working hours or at other reasonable times.

#### 4 30 EXPLANATION

4 31 This bill creates a new Code chapter 91F that requires an

4 32 employer to provide an employee with appropriate meal periods  
4 33 and appropriate rest periods.

4 34 The bill states that an appropriate meal period shall be  
4 35 not less than 30 minutes during an employee's work period of  
5 1 at least seven hours. The meal period is taken between the  
5 2 second and fifth hours of the work or, if the employee works  
5 3 more than seven hours, between the third and sixth hours.

5 4 The bill states that an appropriate rest period shall be a  
5 5 paid period of not less than 10 minutes during every four-hour  
5 6 work period. The rest period is taken in the middle of the  
5 7 work period. The rest period is in addition to the meal  
5 8 period and cannot be added to the meal period or deducted from  
5 9 the work period to reduce the overall length of the total work  
5 10 period.

5 11 The bill defines an "employee" as a natural person who is  
5 12 employed in this state for wages by an employer. An  
5 13 "employer" is defined as a person, as defined in Code section  
5 14 4.1, who employs a natural person for wages.

5 15 The bill provides that an employer is not required to pay  
5 16 for a meal period if an employee is free from work duties  
5 17 during the employee's entire meal period.

5 18 The bill allows three exemptions to the meal and rest  
5 19 period requirements. The first exemption is if the meal and  
5 20 rest period requirements are modified by the terms of a  
5 21 collective bargaining agreement. However, the exemption is  
5 22 valid only if the collective bargaining agreement entered into  
5 23 by the employees prescribes specific terms concerning meal  
5 24 periods and rest periods.

5 25 The second exemption states that meal and rest period  
5 26 requirements apply to hourly paid and salary-paid employees.  
5 27 However, management or employees involved in certain  
5 28 agricultural jobs are not required to have breaks or meal  
5 29 breaks.

5 30 The third exemption is when an employer can show that the  
5 31 ordinary nature and circumstance of the work prevented the  
5 32 employer from establishing and maintaining a regular scheduled  
5 33 meal period.

5 34 The bill provides civil penalties for violating the new  
5 35 Code chapter. An employer who violates the provisions shall  
6 1 be subject to a penalty of up to \$100 for each violation. The  
6 2 labor commissioner may recover the penalties under Code  
6 3 chapter 17A contested case procedures. Any penalties  
6 4 recovered shall be deposited in the general fund of the state.

6 5 The commissioner may propose that an employer be assessed a  
6 6 penalty by serving the employer with notice of a penalty in  
6 7 the same manner as an original notice is served under the  
6 8 rules of civil procedure.

6 9 The bill provides the labor commissioner with the authority  
6 10 to adopt rules to administer and enforce the chapter to  
6 11 provide further exemptions from the provisions when  
6 12 reasonable. Also, the labor commissioner or the  
6 13 commissioner's designee may inspect employment records  
6 14 relating to rest periods for employees and interview an  
6 15 employer or an agent of the employer or employee, during  
6 16 working hours or at other reasonable times.

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