

**House File 216 - Introduced**

HOUSE FILE 216

BY HUNTER

**A BILL FOR**

1 An Act requiring employers to provide employees with meal  
2 periods and rest periods and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 4, Code 2011, is  
2 amended to read as follows:

3 4. The division of labor services is responsible for the  
4 administration of the laws of this state under chapters 88,  
5 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,  
6 and 94A, and section 85.68. The executive head of the division  
7 is the labor commissioner, appointed pursuant to section 91.2.

8 Sec. 2. NEW SECTION. **91F.1 Meal and rest periods —**  
9 **requirements.**

10 1. As used in this chapter, unless the context otherwise  
11 requires:

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

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

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

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

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

35 3. An employer is not required to pay for a meal period

1 if an employee is free from work duties during the employee's  
2 entire meal period. An employee shall be paid for the meal  
3 period if any of the following occur:

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

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

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

11     Sec. 3. NEW SECTION. 91F.2 Meal and rest periods —  
12 exemptions.

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

17     2. Meal and rest period requirements apply to hourly paid  
18 and salary-paid employees. Management or employees involved  
19 in agricultural jobs are not required to have breaks or meal  
20 breaks. For the purposes of this section, agricultural jobs do  
21 not include work in the production of seed, limited to removal  
22 of off-type plants and corn tassels and hand-pollinating during  
23 the months of June, July, and August by persons ages fourteen  
24 and older.

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

30     *a.* The safety and health needs of employees, patients,  
31 clients, and the public.

32     *b.* The lack of other employees available to provide relief  
33 to an employee.

34     *c.* The cost involved in shutdown and startup of machinery in  
35 continuous operation of the industrial process.

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

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

6     Sec. 4. NEW SECTION. **91F.3 Civil penalties.**

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

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

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

30     4. An employer may seek judicial review of any assessment  
31 rendered under subsection 3 by instituting proceedings for  
32 judicial review pursuant to chapter 17A. However, such  
33 proceedings must be instituted in the district court of the  
34 county in which the violation or one of the violations occurred  
35 and within thirty days of the day on which the employer was

1 notified that an assessment has been rendered. Also, an  
2 employer may be required, at the discretion of the district  
3 court and upon instituting such proceedings, to deposit the  
4 amount assessed with the clerk of the district court. Any  
5 moneys so deposited shall either be returned to the employer  
6 or be forwarded to the commissioner for deposit in the general  
7 fund of the state, depending on the outcome of the judicial  
8 review, including any appeal to the supreme court.

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

14 Sec. 5. NEW SECTION. 91F.4 Duties and authority of  
15 commissioner.

16 1. The labor commissioner shall adopt rules to administer  
17 and enforce this chapter and shall provide further exemptions  
18 from the provisions in this chapter when reasonable.

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

23 a. Inspect employment records relating to meal and rest  
24 periods for employees.

25 b. Interview an employer or employee or an agent of  
26 the employer or employee, during working hours or at other  
27 reasonable times.

28 EXPLANATION

29 This bill creates a new Code chapter 91F that requires an  
30 employer to provide an employee with appropriate meal periods  
31 and appropriate rest periods.

32 The bill states that an appropriate meal period shall be not  
33 less than 30 minutes during an employee's work period of at  
34 least seven hours. The meal period is to be taken between the  
35 second and fifth hours of the work or, if the employee works

1 more than seven hours, between the third and sixth hours.

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

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

12 The bill provides that an employer is not required to pay for  
13 a meal period if an employee is free from work duties during  
14 the employee's entire meal period.

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

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

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

31 The bill provides civil penalties for violating the new  
32 Code chapter. An employer who violates the provisions shall  
33 be subject to a penalty of up to \$100 for each violation. The  
34 labor commissioner may recover the penalties under Code chapter  
35 17A contested case procedures. Any penalties recovered shall

1 be deposited in the general fund of the state.

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

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