

**House File 26 - Introduced**

HOUSE FILE 26

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 2019, 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 sections 73A.21 and 85.68. The executive head of  
7 the division is the labor commissioner, appointed pursuant to  
8 section 91.2.

9 Sec. 2. Section 91.4, subsection 2, Code 2019, is amended  
10 to read as follows:

11 2. The director of the department of workforce development,  
12 in consultation with the labor commissioner, shall, at the  
13 time provided by law, make an annual report to the governor  
14 setting forth in appropriate form the business and expense of  
15 the division of labor services for the preceding year, the  
16 number of remedial actions taken under chapter 89A, the number  
17 of disputes or violations processed by the division and the  
18 disposition of the disputes or violations, and other matters  
19 pertaining to the division which are of public interest,  
20 together with recommendations for change or amendment of the  
21 laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,  
22 90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A, and section 85.68,  
23 and the recommendations, if any, shall be transmitted by the  
24 governor to the first general assembly in session after the  
25 report is filed.

26 Sec. 3. NEW SECTION. 91F.1 Meal and rest periods —  
27 requirements.

28 1. As used in this chapter, unless the context otherwise  
29 requires:

30 a. "Commissioner" means the labor commissioner appointed  
31 pursuant to section 91.2.

32 b. "Employee" means a natural person who is employed in this  
33 state for wages by an employer.

34 c. "Employer" means a person, as defined in section 4.1,  
35 who in this state employs for wages a natural person. An

1 employer does not include a client, patient, customer, or  
2 other person who obtains professional services from a licensed  
3 person providing the services on a fee service basis or as an  
4 independent contractor.

5 2. An employer shall provide an employee with appropriate  
6 meal periods and appropriate rest periods.

7 a. An appropriate meal period shall be a period of not less  
8 than thirty minutes during an employee's work period in which  
9 an employee works at least seven hours. The meal period shall  
10 be taken between the second and fifth hours. If an employee  
11 works more than seven hours, the meal period shall be taken  
12 between the third and sixth hours.

13 b. An appropriate rest period shall be a paid period of  
14 not less than ten minutes during every consecutive four-hour  
15 period of work taken by an employee approximately in the middle  
16 of each four-hour period. The rest period is in addition to a  
17 meal period, if applicable, and shall not be added to a meal  
18 period or deducted from the work period to reduce the overall  
19 length of the total work period.

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

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

25 b. The employee is required to be on-call at the work  
26 premises or designated worksite in order to be available to  
27 return to duty even if the employee is not called back to duty.

28 c. The employee is called back to duty during the employee's  
29 meal period even though the employee is not usually on-call  
30 during the meal period.

31 Sec. 4. NEW SECTION. 91F.2 Meal and rest periods —  
32 exemptions.

33 1. Meal and rest period requirements may be modified by the  
34 terms of a collective bargaining agreement if the collective  
35 bargaining agreement entered into by the employees prescribes

1 specific terms concerning meal periods and rest periods.

2 2. Meal and rest period requirements apply to hourly paid  
3 and salary-paid employees. Management or employees involved  
4 in agricultural jobs are not required to have breaks or meal  
5 breaks. For the purposes of this section, agricultural jobs do  
6 not include work in the production of seed, limited to removal  
7 of off-type plants and corn tassels and hand-pollinating during  
8 the months of June, July, and August by persons ages fourteen  
9 and older.

10 3. Meal period requirements may be waived if an employer  
11 shows that the ordinary nature and circumstance of the work  
12 prevented the employer from establishing and maintaining a  
13 regularly scheduled meal period. The factors that may be  
14 considered regarding the waiver of the requirements are limited  
15 to the following:

16 a. The safety and health needs of employees, patients,  
17 clients, and the public.

18 b. The lack of other employees available to provide relief  
19 to an employee.

20 c. The cost involved in shutdown and startup of machinery in  
21 continuous operation of the industrial process.

22 d. The intermittent and unpredictable workflow not  
23 controlled by the employer or employee.

24 e. Unforeseeable equipment failures, emergencies, or acts  
25 of nature that require immediate and uninterrupted attention  
26 by an employee.

27 **Sec. 5. NEW SECTION. 91F.3 Civil penalties.**

28 1. Any employer who violates the provisions of this chapter  
29 or the rules adopted pursuant to this chapter is subject to a  
30 civil penalty of not more than one hundred dollars for each  
31 violation. The commissioner may recover the civil penalty  
32 according to subsections 2 through 5. Any civil penalty  
33 recovered shall be deposited in the general fund of the state.

34 2. The commissioner may propose that an employer be assessed  
35 a civil penalty by serving the employer with notice of such

1 proposal in the same manner as an original notice is served  
2 under the rules of civil procedure. Upon service of such  
3 notice, the proposed assessment shall be treated as a contested  
4 case under chapter 17A. However, to remain a contested case,  
5 an employer must request a hearing within thirty days of being  
6 served.

7 3. If an employer does not request a hearing pursuant  
8 to subsection 2 or if the commissioner determines, after an  
9 appropriate hearing, that an employer is in violation of this  
10 chapter or the rules adopted pursuant to this chapter, the  
11 commissioner shall assess a civil penalty which is consistent  
12 with the provisions of subsection 1 and which is rendered with  
13 due consideration for the penalty amount in terms of the size  
14 of the employer's business, the gravity of the violation,  
15 the good faith of the employer, and the history of previous  
16 violations.

17 4. An employer may seek judicial review of any assessment  
18 rendered under subsection 3 by instituting proceedings for  
19 judicial review pursuant to chapter 17A. However, such  
20 proceedings must be instituted in the district court of the  
21 county in which the violation or one of the violations occurred  
22 and within thirty days of the day on which the employer was  
23 notified that an assessment has been rendered. Also, an  
24 employer may be required, at the discretion of the district  
25 court and upon instituting such proceedings, to deposit the  
26 amount assessed with the clerk of the district court. Any  
27 moneys so deposited shall either be returned to the employer  
28 or be forwarded to the commissioner for deposit in the general  
29 fund of the state, depending on the outcome of the judicial  
30 review, including any appeal to the supreme court.

31 5. After the time for seeking judicial review has expired  
32 or after all judicial review has been exhausted and the  
33 commissioner's assessment has been upheld, the commissioner  
34 shall request the attorney general to recover the assessed  
35 penalties in a civil action.



1 employs a natural person for wages.

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

5 The bill allows three exemptions to the meal and rest period  
6 requirements. The first exemption is if the meal and rest  
7 period requirements are modified by the terms of a collective  
8 bargaining agreement. However, the exemption is valid only  
9 if the collective bargaining agreement entered into by the  
10 employees prescribes specific terms concerning meal periods and  
11 rest periods.

12 The second exemption states that meal and rest period  
13 requirements apply to hourly paid and salary-paid employees.  
14 However, management or employees involved in certain  
15 agricultural jobs are not required to have breaks or meal  
16 breaks.

17 The third exemption is if an employer shows that the ordinary  
18 nature and circumstance of the work prevented the employer from  
19 establishing and maintaining a regular scheduled meal period.

20 The bill provides civil penalties for violating the new  
21 Code chapter. An employer who violates the provisions shall  
22 be subject to a penalty of up to \$100 for each violation. The  
23 labor commissioner may recover the penalties under Code chapter  
24 17A contested case procedures. Any penalties recovered shall  
25 be deposited in the general fund of the state.

26 The commissioner may propose that an employer be assessed a  
27 penalty by serving the employer with notice of a penalty in the  
28 same manner as an original notice is served under the rules of  
29 civil procedure.

30 The bill provides the labor commissioner with the authority  
31 to provide further exemptions from new Code chapter 91F when  
32 reasonable. Also, the labor commissioner or the commissioner's  
33 designee may inspect employment records relating to rest  
34 periods for employees and interview an employer or employee or  
35 an agent of the employer or employee, during working hours or

1 at other reasonable times. The bill requires the commissioner  
2 to adopt rules to administer the Code chapter.