

ASSEMBLY BILL

No. 1789

Introduced by Assembly Member Morrell

February 21, 2012

An act to amend Section 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1789, as introduced, Morrell. Employment: meal periods.

Existing law requires an employer to provide an employee with one meal period during a work period of more than 5 hours and 2 meal periods during a work period of more than 10 hours, as prescribed.

This bill would make nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 512 of the Labor Code is amended to
2 read:
3 512. (a) An employer may not employ an employee for a work
4 period of more than five hours per day without providing the
5 employee with a meal period of not less than 30 minutes, except
6 that if the total work period per day of the employee is no more
7 than six hours, the meal period may be waived by mutual consent
8 of both the employer and employee. An employer may not employ
9 an employee for a work period of more than 10 hours per day
10 without providing the employee with a second meal period of not
11 less than 30 minutes, except that if the total hours worked is no

1 more than 12 hours, the second meal period may be waived by
2 mutual consent of the employer and the employee, *but* only if the
3 first meal period was not waived.

4 (b) Notwithstanding subdivision (a), the Industrial Welfare
5 Commission may adopt a working condition order permitting a
6 meal period to commence after six hours of work if the commission
7 determines that the order is consistent with the health and welfare
8 of the affected employees.

9 (c) Subdivision (a) does not apply to an employee in the
10 wholesale baking industry who is subject to an Industrial Welfare
11 Commission wage order and who is covered by a valid collective
12 bargaining agreement that provides for a 35-hour workweek
13 consisting of five 7-hour days, payment of one and one-half times
14 the regular rate of pay for time worked in excess of seven hours
15 per day, and a rest period of not less than 10 minutes every two
16 hours.

17 (d) If an employee in the motion picture industry or the
18 broadcasting industry, as those industries are defined in Industrial
19 Welfare Commission Wage Order Numbers 11 and 12, is covered
20 by a valid collective bargaining agreement that provides for meal
21 periods and includes a monetary remedy if the employee does not
22 receive a meal period required by the agreement, ~~then~~ the terms,
23 conditions, and remedies of the agreement pertaining to meal
24 periods apply in lieu of the applicable provisions pertaining to
25 meal periods of subdivision (a) of this section, Section 226.7, and
26 Industrial Welfare Commission Wage Order Numbers 11 and 12.

27 (e) Subdivisions (a) and (b) do not apply to an employee
28 specified in subdivision (f) if both of the following conditions are
29 satisfied:

30 (1) The employee is covered by a valid collective bargaining
31 agreement.

32 (2) The valid collective bargaining agreement expressly provides
33 for the wages, hours of work, and working conditions of
34 employees, and expressly provides for meal periods for those
35 employees, final and binding arbitration of disputes concerning
36 application of its meal period provisions, premium wage rates for
37 all overtime hours worked, and a regular hourly rate of pay of not
38 less than 30 percent more than the state minimum wage rate.

39 (f) Subdivision (e) applies to each of the following employees:

40 (1) An employee employed in a construction occupation.

1 (2) An employee employed as a commercial driver.

2 (3) An employee employed in the security services industry as
3 a security officer who is registered pursuant to Chapter 11.5
4 (commencing with Section 7580) of Division 3 of the Business
5 and Professions Code, and who is employed by a private patrol
6 operator registered pursuant to that chapter.

7 (4) An employee employed by an electrical corporation, a gas
8 corporation, or a local publicly owned electric utility.

9 (g) The following definitions apply for the purposes of this
10 section:

11 (1) “Commercial driver” means an employee who operates a
12 vehicle described in Section 260 or 462 of, or subdivision (b) of
13 Section 15210 of, the Vehicle Code.

14 (2) “Construction occupation” means all job classifications
15 associated with construction by Article 2 (commencing with
16 Section 7025) of Chapter 9 of Division 3 of the Business and
17 Professions Code, including work involving alteration, demolition,
18 building, excavation, renovation, remodeling, maintenance,
19 improvement, and repair, and any other similar or related
20 occupation or trade.

21 (3) “Electrical corporation” has the same meaning as provided
22 in Section 218 of the Public Utilities Code.

23 (4) “Gas corporation” has the same meaning as provided in
24 Section 222 of the Public Utilities Code.

25 (5) “Local publicly owned electric utility” has the same meaning
26 as provided in Section 224.3 of the Public Utilities Code.