

ASSEMBLY BILL

No. 2176

Introduced by Assembly Member Logue

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2176, as introduced, Logue. Employment: meal periods.

Existing law requires an employer to provide a meal period or periods to an employee who works a specified number of hours in a shift. The meal periods may be waived by mutual consent under specified circumstances. Existing law provides exemptions from these requirements for specified occupations and employees covered by collective bargaining agreements.

This bill, in addition, would provide an exemption from the meal period requirements for commercial drivers operating a vehicle that is required to display placards pursuant to a specified statute.

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

1 than six hours, the meal period may be waived by mutual consent
2 of both the employer and employee. An employer may not employ
3 an employee for a work period of more than 10 hours per day
4 without providing the employee with a second meal period of not
5 less than 30 minutes, except that if the total hours worked is no
6 more than 12 hours, the second meal period may be waived by
7 mutual consent of the employer and the employee only if the first
8 meal period was not waived.

9 (b) Notwithstanding subdivision (a), the Industrial Welfare
10 Commission may adopt a working condition order permitting a
11 meal period to commence after six hours of work if the commission
12 determines that the order is consistent with the health and welfare
13 of the affected employees.

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

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

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

35 (1) The employee is covered by a valid collective bargaining
36 agreement.

37 (2) The valid collective bargaining agreement expressly provides
38 for the wages, hours of work, and working conditions of
39 employees, and expressly provides for meal periods for those
40 employees, final and binding arbitration of disputes concerning

1 application of its meal period provisions, premium wage rates for
2 all overtime hours worked, and a regular hourly rate of pay of not
3 less than 30 percent more than the state minimum wage rate.

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

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

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

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

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

14 (g) *Subdivisions (a) and (b) do not apply to a commercial driver*
15 *operating a motor vehicle that is required to display placards*
16 *pursuant to Section 27903 of the Vehicle Code who has a*
17 *commercial driver's license and endorsements, as required by*
18 *Sections 15275 and 15278 of the Vehicle Code.*

19 ~~(g)~~

20 (h) The following definitions apply for the purposes of this
21 section:

22 (1) "Commercial driver" means an employee who operates a
23 vehicle described in Section 260 or 462 of, or subdivision (b) of
24 Section 15210 of, the Vehicle Code.

25 (2) "Construction occupation" means all job classifications
26 associated with construction by Article 2 (commencing with
27 Section 7025) of Chapter 9 of Division 3 of the Business and
28 Professions Code, including work involving alteration, demolition,
29 building, excavation, renovation, remodeling, maintenance,
30 improvement, and repair, and any other similar or related
31 occupation or trade.

32 (3) "Electrical corporation" has the same meaning as provided
33 in Section 218 of the Public Utilities Code.

34 (4) "Gas corporation" has the same meaning as provided in
35 Section 222 of the Public Utilities Code.

36 (5) "Local publicly owned electric utility" has the same meaning
37 as provided in Section 224.3 of the Public Utilities Code.