

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 264, L.D. 318)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1471

8 H.P. 1018

House of Representatives, May 8, 1985

9 Reported by Representative Willey from the Committee on Labor and
10 printed under Joint Rule 2. Original bill sponsored by Representative Beaulieu
of Portland. Cosponsored by Representative McCollister of Canton.

11 EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT Requiring Employee Rest Breaks.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 26 MRSA c. 7, sub-c. I-A is enacted to read:

23 SUBCHAPTER I-A

24 HOURS OF EMPLOYMENT

25 §601. Rest breaks

26 In the absence of a collective bargaining agree-
27 ment or other written employer-employee agreement
28 providing otherwise, an employee, as defined in sec-
29 tion 663, may be employed or permitted to work for no
30 more than 6 consecutive hours at one time unless he
31 is given the opportunity to take at least 30 consecu-
32 tive minutes of rest time, except in cases of emer-
33 gency in which there is danger to property, life,

1 public safety or public health. This rest time may
2 be used by the employee as a mealtime.

3 1. Small business. This section does not apply
4 to any place of employment where:

5 A. Fewer than 3 employees are on duty at any one
6 time; and

7 B. The nature of the work done by the employees
8 allows them frequent breaks during their work
9 day.

10 §602. Enforcement and penalty

11 The following provisions govern the enforcement
12 of this subchapter.

13 1. Violation. Any employer who violates this
14 subchapter commits a civil violation for which a for-
15 feiture of not less than \$100 nor more than \$500 for
16 each violation may be adjudged.

17 2. Discharge or discrimination. Any employer
18 who discharges or in any other manner discriminates
19 against any employee because the employee makes a
20 complaint to the director, the district attorney or
21 the Attorney General concerning a violation of this
22 subchapter, commits a civil violation for which a
23 forfeiture of not less than \$100 nor more than \$500
24 may be adjudged.

25 3. Injunction. If any provision of this sub-
26 chapter is violated, the Attorney General may seek an
27 injunction in the Superior Court to enjoin any fur-
28 ther violations or to compel the reinstatement of an
29 employee discharged or discriminated against as de-
30 scribed in subsection 2.

31 STATEMENT OF FACT

32 The new draft clarifies several ambiguities in
33 the original bill, reduces the time given for rest
34 and adds certain limited exemptions to avoid creating
35 unnecessary hardships for certain businesses. The new

1 draft makes it clear that an employee does not have
2 to take the rest break required under this new draft;
3 he need only be given the opportunity to take that
4 break. If an employee chooses to forego his break and
5 continue working, he may make that decision. The new
6 draft also requires that rest break to be given in a
7 single 30-minute block whenever an employee is re-
8 quired to work for more than 6 consecutive hours.

9 A written agreement entered into between the em-
10 ployer and the employees may substitute for a collec-
11 tive bargaining agreement under this new draft, al-
12 lowing nonunion employees the same bargaining rights
13 as union employees in this area. An "emergency" which
14 creates an exception under this new draft is now de-
15 fined as a condition which threatens "property, life,
16 public safety or public health." Finally, an excep-
17 tion was added to protect very small businesses from
18 unnecessary hardship. If a place of employment has
19 only one or 2 employees on duty at one time and those
20 employees' duties allow them the opportunity for fre-
21 quent breaks during their workday, no rest break is
22 required. This was done so that the small employer
23 does not have to provide a substitute employee for
24 the 30-minute rest break since the employees on duty
25 will be getting adequate rest time during the day due
26 to the nature of the work. The enforcement provisions
27 of the original bill remain unchanged and, as in the
28 original bill, the employer is not required to pay
29 the employee for the rest break time nor is he re-
30 quired to provide it at any specific time of day;
31 these concerns are still left to the bargaining pro-
32 cess or employer-employee agreement.

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