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AB-2610 Employees: meal periods. (2017-2018)

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Assembly Bill No. 2610

CHAPTER 148

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

[Approved by Governor July 20, 2018. Filed with Secretary of State July 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2610, Aguiar-Curry. Employees: meal periods.

Existing law generally prohibits an employer from requiring an employee to work more than 5 hours per day without providing a meal period of not less than 30 minutes. Existing law excepts employees in specified occupations that meet certain conditions from this prohibition and authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees.

This bill would authorize a commercial driver employed by a motor carrier transporting nutrients and byproducts from a licensed commercial feed manufacturer to a customer located in a remote rural location to commence a meal period after 6 hours of work, if the regular rate of pay of the driver is no less than one and one-half times the state minimum wage and the driver receives overtime compensation in accordance with specific provisions of existing law.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 512 of the Labor Code is amended to read:

512. (a) An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) (1) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

(2) Notwithstanding paragraph (1), a commercial driver employed by a motor carrier transporting nutrients and byproducts from a commercial feed manufacturer subject to Section 15051 of the Food and Agricultural Code to a customer located in a remote

rural location may commence a meal period after six hours of work, if the regular rate of pay of the driver is no less than one and one-half times the state minimum wage and the driver receives overtime compensation in accordance with Section 510.

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

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

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

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

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

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

(1) An employee employed in a construction occupation.

(2) An employee employed as a commercial driver.

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

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

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

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

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

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

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

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