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**AB-2479 Rest periods: petroleum facilities: safety-sensitive positions.** (2019-2020)

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**Assembly Bill No. 2479**

**CHAPTER 349**

An act to amend Section 226.75 of the Labor Code, relating to employment.

[ Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2479, Gipson. Rest periods: petroleum facilities: safety-sensitive positions.

Existing law prohibits an employer from requiring an employee to work during a mandated meal or rest or recovery period, as specified. Existing law requires an employer who fails to provide an employee a mandated meal or rest or recovery period to pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period was not provided. Existing law provides certain exemptions from these requirements.

Existing law provides, until January 1, 2021, an exemption from the rest period requirements for specified employees who hold a safety-sensitive position at a petroleum facility, as defined, to the extent that the employee is required to carry and monitor a communication device and to respond to emergencies, or is required to remain on employer premises to monitor the premises and respond to emergencies. Existing law requires another rest period to be authorized in the case of an interrupted rest period, as prescribed, and, if circumstances do not allow for the employee to take a rest period, requires the employer to pay the employee one hour of pay at the employee's regular rate of pay for the rest period that was not provided.

This bill would extend that exemption until January 1, 2026.

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

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

**SECTION 1.** Section 226.75 of the Labor Code is amended to read:

**226.75.** (a) Notwithstanding any provision of this code or of Industrial Welfare Commission Wage Order No. 1, the requirement that employees be relieved of all duties during rest periods shall not apply with respect to an employee holding a safety-sensitive position at a petroleum facility to the extent that the employee is required to carry and monitor a communication device, such as a radio, pager, or other form of instant communication, and to respond to emergencies, or is required to remain on employer premises to monitor the premises and respond to emergencies.

(b) If a nonexempt employee covered by this section is affirmatively required to interrupt that employee's rest period to address an emergency, another rest period shall be authorized and permitted reasonably promptly after the circumstances that led to the interruption have passed. If circumstances do not allow for the employee to take such a rest period, the employer shall pay the employee one hour of pay at the employee's regular rate of pay for the rest period that was not provided.

(c) An employer that operates a petroleum facility shall include, as part of the itemized statement that the employer is required to furnish pursuant to subdivision (a) of Section 226, the total hours or pay owed to an employee, as described in subdivision (a), on account of a rest period that was not authorized or permitted for the reasons described in subdivision (b) or any other reason.

(d) As used in this section:

(1) "Petroleum facilities" means petroleum refineries, marine and onshore terminals handling crude oil and petroleum products, bulk marketing terminals, asphalt plants, gas plants, catalyst plants, carbon plants, and any other facility involved in the processing, refining, transport, or storage of crude oil or petroleum products.

(2) "Safety-sensitive position" means a job in which the employee's job duties reasonably include responding to emergencies at a petroleum facility.

(3) "Emergency" means a situation or event requiring prompt or immediate intervention to prevent or respond to a disruption in normal operations, which could cause harm to employees, equipment, the environment, or the community.

(e) This section shall apply only to employees subject to Industrial Welfare Commission Wage Order No. 1.

(f) This section also only applies to an employee specified in subdivision (a) 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 rest periods for those employees, final and binding arbitration of disputes concerning application of its rest 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.

(g) This section shall not apply to existing cases filed before the effective date of this section.

(h) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.