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SB-1334 Meal and rest periods: hospital employees. (2021-2022)

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Senate Bill No. 1334

CHAPTER 845

An act to add Section 512.1 to the Labor Code, relating to employment.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, Bradford. Meal and rest periods: hospital employees.

Existing law requires an employer to provide an employee with a meal period during a work period of more than 5 hours per day, except as prescribed. Existing law makes a violation of these provisions a misdemeanor. Existing law prohibits an employer from requiring an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health. 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.

This bill would entitle employees who provide direct patient care or support direct patient care in a general acute care hospital, clinic, or public health setting directly employed by specified public sector employers to one unpaid 30-minute meal period on shifts over 5 hours and a 2nd unpaid 30-minute meal period on shifts over 10 hours, as provided by specified existing law. The bill would authorize these employees to waive those meal periods and would provide for on-duty meal periods, as provided by specified existing law. The bill would entitle these employees to a rest period based on the total hours worked daily at the rate of 10 minutes net rest time per 4 hours or major fraction thereof, as provided. The bill would require these employers, if they fail to provide an employee a meal period or rest period in accordance with the bill, 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 period is not provided. The bill would exempt employees who are covered by a valid collective bargaining agreement that provides for meal and rest periods and, if the employee does not receive a meal or rest period as required by the agreement, includes a prescribed monetary remedy. By establishing these requirements, the violation of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) Meal and rest periods are essential worker protections that reduce accidents, improve productivity, and promote employee wellbeing.
- (b) In the health care sector, fatigue can adversely impact patient care and meal and rest periods are important to ensuring quality care.
- (c) Private sector hospital employees who provide direct patient care in acute care hospitals are guaranteed meal and rest periods and a remedy of one hour premium pay for missed meal and rest breaks while such employees in the public sector lack these basic protections, even though they perform the same duties.
- (d) Worker health and safety and high-quality patient care are matters of statewide concern and are the basis of numerous laws and regulations.
- (e) This act ensures equity in working conditions and patient care standards for hospital, clinic, or public health employees who provide direct patient care or support direct patient care.

SEC. 2. Section 512.1 is added to the Labor Code, to read:

512.1. (a) An employee directly employed by an employer shall be entitled to one unpaid 30-minute meal period on shifts over 5 hours and a second unpaid 30-minute meal period on shifts over 10 hours, as provided by Section 512.

(1) The employee may waive a meal period in accordance with subdivision (a) of Section 512 and paragraph (D) of Section 11 of Wage Order Number 4 or paragraph (D) of Section 11 of Wage Order Number 5 of the Industrial Welfare Commission.

(2) On-duty meal periods may be provided in accordance with paragraph (A) of Section 11 of Wage Order Number 4 or paragraph (A) of Section 11 of Wage Order Number 5 of the Industrial Welfare Commission.

(b) An employee who is directly employed by an employer shall be entitled to a rest period based on the total hours worked daily at the rate of 10 minutes net rest time per 4 hours or major fraction thereof, as provided by Wage Order Number 4 and Wage Order Number 5 of the Industrial Welfare Commission.

(c) If an employer fails to provide to an employee a meal period or rest period in accordance with this section, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

(d) This section does not apply to an employee directly employed by an employer who is covered by a valid collective bargaining agreement that provides for meal and rest periods, and, if the employee does not receive a meal or rest period as required by the agreement, includes a monetary remedy that, at a minimum, is equivalent to one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

(e) As used in this section:

(1) "Employee" means an employee who provides direct patient care or supports direct patient care in a general acute care hospital, clinic, or public health setting.

(2) "Employer" means the state, political subdivisions of the state, counties, municipalities, and the Regents of the University of California.

(3) "General acute care hospital" means a health facility as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.