HILL, FARRER & BURRILL LLP
LABOR & EMPLOYMENT E-BLAST

New Law Exempts Certain Union Employees from Required Meal Break, Allows for "On-Duty" Meal Periods

Labor Code § 512 Revised to Allow Employees Under a Valid CBA to Negotiate for On-Duty Meal Periods

On September 30, 2010, California Governor Arnold Schwartznegger signed Assembly Bill 569 into law, exempting certain categories of unionized employees from California's meal period laws. AB 569, authored and championed by Senator Bill Emmerson, will take effect January 1, 2011.

Prior to the introduction of AB 569, existing labor law prohibited employers from requiring an employee to work more than 5 hours per day without providing a mandatory "off-duty" meal period, subject to certain poorly-articulated exceptions. AB 569 amends Labor Code § 512 to clarify those occupations exempted from meal period requirements, including those within the following industries:

- Construction
- Commercial driving
- Security services
- Wholesale baking
- Motion picture
- Broadcasting
- Electrical or gas corporation
- Local publicly owned electric utility

To qualify for exemption under the new law, the employees in question must be covered by a valid collective bargaining agreement ("CBA"). While the definition of "valid" under Labor Code § 512 varies by industry, the CBA must expressly provide for meal periods, regardless of whether the break may be taken "on-duty" or "off-duty." The text of AB 569, which includes the definitions of each of the occupations and/or industries discussed above, can be found here.

The revisions to Labor Code § 512 represent a significant victory for California employers and employees alike. Affected employees may now negotiate paid meal periods and avoid an unwanted, unpaid 30-minute meal break. Employers bogged down by escalating legal costs now have greater clarity with regard to California's meal period laws. Prior to AB 569, many employers had been adversely affected by significant increases in meal period litigation, as trial attorneys preyed on ambiguities in existing law by filing class action lawsuits against employers.

Employers are encouraged to carefully review the specific definitions contained within Labor Code § 512 before considering changing their current policies or practices with regard to meal breaks. If you are a California employer within one of the aforementioned industries, and believe your employees might be covered by a valid CBA, please do not hesitate to call your attorney at Hill, Farrer & Burrill, LLP if you would like assistance in benefitting from this new law.

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