

PERSONNEL NOTEBOOK

For Your Most Important Resource—The Human Resource

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MEAL AND REST BREAKS

Among the most popular questions on our “Employment Hot-Line” are those that deal with break times. They ask, “What are the regulations on meals and rest breaks?” “Are we required to give them?” “Must they be paid?” “How long must they be?” “Are more breaks required after 10 hours of work?” and “What if they don’t want to take a lunch break at all?”

The answers change from one set of circumstances to another. The first change comes into play when your hiring minors. Employees under the age of 18 do have mandated breaks as well as limits to the number of hours they may work.

Most employers give breaks is because they want to offer them to employees for their own well-being. Companies merely want to know what’s legal and what’s right. Let’s look at what the federal and state regulations call for.

Federal Laws:

The first surprise is that, just like vacations, there is no federal law that requires you, the employer, to offer breaks at all. But, to add to the confusion, if you do give breaks, there are regulations as to how you must apply and pay for them. We’ll get to that in a minute.

Federal laws such as the Americans with Disabilities Act (ADA) or the Family and Medical Leave Act (FMLA) mandate that if an employee is medically required to take periodic breaks, you may have to accommodate that requirement.

So, if an employee is diabetic and needs to test his blood sugar or to take insulin shots, or is medically advised to take a short break every 3 or 4 hours, you may have to accommodate that need. If the need is unreasonable, then you may not have to do so. In order to be fair to all

employees and to head off later problems, you should require that the requests for accommodation be in writing and should include documentation from a doctor.

Accommodation for religious purpose may also be required. A Muslim employee who requested to use his breaks for prayer and to combine his Friday breaks and lunch to attend Friday services had to be accommodated. But he was to be docked if his time off ever exceeded the break time allowed to other employees.

You do not always have to accommodate the request. If you have a legitimate business reason (such as being short staffed, or no one else is available to do this job) the request may be considered an *unreasonable* accommodation.

If you do give breaks and lunch periods the Federal Labor Standards Act (FLSA) has something to say about how you do so.

Rest Breaks

Short rest periods (coffee, refreshment breaks) of 5 minutes to 20 minutes must be counted as time worked and paid.

Meal Breaks

Bona Fide meal periods are not work time and pay is not required. To qualify as a meal period, two conditions must be met:

1. The employee must be completely relieved from duty for the purpose of eating lunch. The employee must not be “suffered” to work by eating his lunch at his work desk or at her machine.

2. The meal period must be at least 30 minutes. (There are rare exceptions)

State Laws:

You should check your state laws as they may change more often than federal

The following is, according to the Alexander Hamilton Institute, which we thank for providing some of the information for this issue of Personnel Notebook, the list of states that do have laws governing breaks.

Most states now have “Breast Feeding” laws that require you to accommodate a nursing mother to use a breast pump as needed. You must allow her to have a place to do so or to allow her to do so at her workstation.

If your state is not listed below, then only federal regulations apply.

California

10-minute breaks are required for each 4-hour period of work.

A meal period of 30 minutes must be provided, unless the workday will be completed in less than 6 hours **and** if both employee and employer agree. On-duty meal periods (to shorten the work day for example) are only allowed where the nature of the work prevents relief from duties and when there is a written agreement between employees and the company.

Colorado

10-minute rest breaks in the middle of each 4-hour work period.

Meal break required after 5 hours of work unless the workday will be 6 hours or less. On-duty meal periods are only allowed where the nature of the work prevents relief from duties.

Connecticut

Meal period of 30 minutes required if the workday is to be 7 1/2 hours or more. Meal times must be given after the 2nd hour and the before the last 2 hours of work.

Delaware

Meal period of 30 minutes required if the workday is to be 7 1/2 hours or more. Meal times must be given after the 2nd hour and the before the last 2 hours of work.

Illinois

20-minute meal-break if the workday is to be 7 1/2 hours or more. That break must be given within the first 5 hours of work.

Kentucky

10-minutes rest period during each 4 hours of work, in addition to a lunch break. The lunch period must be between the 3rd hour and the 5th hour.

Maine

For companies with 3 or more employees, a meal period of 30 minutes after 6 hours of work. (Except in emergencies and where the nature of the work allows frequent breaks during the workday.)

Massachusetts

30-minute meal break after 6 hours.

Minnesota

Restroom break at least every 4 hours of work.

Meal break if workday is 8 or more hours.

Nebraska

30-minute meal break required for assembly plants, workshops or mechanical establishments. (Unless company operates 3 round-the-clock shifts.)

Nevada

For companies with more than 1 employee on site, 10-minute rest period every 4 hours and a 30-minute meal period if the work day is to be 8 hours or more.

New Hampshire

30-minute meal period after 5 hours unless it is feasible for the employee to eat while he performs his duties. The employee must agree and be paid for it.

New Mexico

30-minute meal break after 6 hours of work.

New York

Factories: 60-minute meal-break between 11:am and 2:pm.

60-minute meal break for employees who work at least 6 hours between 1:pm and 6:am

All other companies: 30-minute meal break between 11: am and 2:pm.

45-minute meal break for employees who work at least 6 hours between 1:pm and 6:am.

An additional 20 minutes between 5:pm and 7:pm if the shift started before 11:am and continues after 7pm.

North Dakota

30-minute meal break during each 5 hour work period **if** employee desires it.

Oregon

10-minutes rest period, approximately in the middle of every 4 hours worked.

30-minutes meal period for every work period of 6 to 8 hours. Must be taken between the 2nd and 5th hours if the work period is over 7 hours. (Exceptions allowed in cases of standard industry practice or when nature of work prevents relief from duties.)

Rhode Island

For factories, workshops and mechanical establishments, a 20-minute meal break after 6 hours of work. No break is required if the employee can eat during the work and **if** the shift is 6 1/2 hours or less and ends by 1:pm or if the shift ends by 2:pm and does not exceed 7 1/2 hours.

Tennessee

30-minute rest break **or** meal period if workday is 6 hours or more, unless work allows ample opportunity to eat or rest during work schedule.. Cannot be scheduled during the 1st hour of work,

Vermont

Reasonable time to use toilet facilities.

Washington (state)

30-minutes every 4 hours, approximately in the middle of that period unless nature of work already allows for such breaks.

30-minute meal period after 5 hours taken between the 2nd and the 5th hours. If employee works 3 hours or more overtime, an additional 30-minutes meal break must be allowed.

West Virginia

20-minutes meal break for workday of 6 or more hours.

Wisconsin

No requirements but employers are *encouraged* to provide breaks of at least 30 minutes as close to regular meal times or to the middle of the shift as possible.

If your employees want to skip the lunch break to go home early, you can allow that as long as your state law (above) doesn't prevent it.

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