



New Exemption to the Meal-Period Requirement

Insights

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(But Only For Some Employers)

On September 30, 2010, Gov. Arnold Schwarzenegger signed a bill providing an additional exemption to the current meal-period requirements. Existing law requires that all employees in California, with certain exceptions, receive a meal break of at least 30 minutes beginning before the fifth hour of work. The new exemption will apply to employees in certain occupations or industries who are covered by collective bargaining agreements.

Once the amended statute goes into effect on January 1, 2011, individuals who are employed as construction workers, commercial drivers, or security officers in the security services industry, along with employees of electrical corporations, gas corporations, and local publicly-owned electric utilities, will have the possibility of taking advantage of the new exemption. The revised law will give employers the ability to bargain with unions about the statutorily-mandated meal periods for those categories of employees, so long as the resulting collective bargaining agreement expressly provides for meal periods for those employees.

The statute permits unions and employers to bargain over the timing of meal periods or agree to paid, on-duty meals for affected employees. This will likely be seen as a favorable development for unionized employers in covered industries, as they will have more flexibility in negotiation of meal periods for their employees. On the other hand, non-union employers may be disappointed, as this exemption will likely give unions additional leverage when attempting to organize currently-unrepresented employees.

Some observers were surprised by Schwarzenegger's decision to sign this bill, as he had rejected similar legislation in 2004 and 2006, declining to approve legislation that singled out only a specific group of employers and employees. But there are already industry-specific exemptions in this same statute, including one for employees in the motion picture and broadcast industries, so his approval should not have come as a complete shock.

Employers who may be covered by this change in the law should review the statute carefully before entering into any new agreements covering meal periods. Meal periods in California are always tricky.

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