

Assembly Bill No. 569

CHAPTER 662

An act to amend Section 512 of the Labor Code, relating to employment.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 569, Emmerson. Meal periods: exemptions.

Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than 5 hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees.

This bill would exempt from these provisions employees in a construction occupation, commercial drivers, employees in the security services industry employed as security officers, and employees of electrical and gas corporations or local publicly owned electric utilities, as defined, if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for certain other employees or employers.

The people of the State of California do enact as follows:

SECTION 1. Section 512 of the Labor Code is amended to read:

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to an Industrial Welfare Commission wage order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five 7-hour days, payment of one and one-half times the regular rate of pay for time worked in excess of seven hours per day, and a rest period of not less than 10 minutes every two hours.

(d) If an employee in the motion picture industry or the broadcasting industry, as those industries are defined in Industrial Welfare Commission Wage Order Numbers 11 and 12, is covered by a valid collective bargaining agreement that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period required by the agreement, then the terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage Order Numbers 11 and 12.

(e) Subdivisions (a) and (b) do not apply to an employee specified in subdivision (f) 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 meal periods for those employees, final and binding arbitration of disputes concerning application of its meal 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.

(f) Subdivision (e) applies to each of the following employees:

(1) An employee employed in a construction occupation.

(2) An employee employed as a commercial driver.

(3) An employee employed in the security services industry as a security officer who is registered pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, and who is employed by a private patrol operator registered pursuant to that chapter.

(4) An employee employed by an electrical corporation, a gas corporation, or a local publicly owned electric utility.

(g) The following definitions apply for the purposes of this section:

(1) “Commercial driver” means an employee who operates a vehicle described in Section 260 or 462 of, or subdivision (b) of Section 15210 of, the Vehicle Code.

(2) “Construction occupation” means all job classifications associated with construction by Article 2 (commencing with Section 7025) of Chapter 9 of Division 3 of the Business and Professions Code, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, and repair, and any other similar or related occupation or trade.

(3) “Electrical corporation” has the same meaning as provided in Section 218 of the Public Utilities Code.

(4) “Gas corporation” has the same meaning as provided in Section 222 of the Public Utilities Code.

(5) “Local publicly owned electric utility” has the same meaning as provided in Section 224.3 of the Public Utilities Code.

SEC. 2. Notwithstanding any other provision of law, paragraphs (1) and (2) of subdivision (e) of Section 512 of the Labor Code do not affect the nature or scope of the law related to meal periods, including the timing of commencement of a meal period, for employees or employers not specifically covered by paragraphs (1) and (2) of subdivision (e) of Section 512 of the Labor Code.

SEC. 3. Notwithstanding any other provision of law, including applicable Industrial Welfare Commission orders, the addition of paragraph (3) of subdivision (f) to Section 512 of the Labor Code made by this act does not affect the nature or scope of the law relating to meal periods for security officers who are not covered by a valid collective bargaining agreement.