



THE VOICE OF MONTGOMERY COUNTY BUSINESS

SB 789 LABOR AND EMPLOYMENT-THE HEALTHY RETAIL EMPLOYEE ACT

SENATE FINANCE COMMITTEE

MARCH 10, 2010

OPPOSE

The Montgomery County Chamber of Commerce ("MCCC"), as the voice of Montgomery County business, **opposes SB 789** requiring retail employers with 50 or more employees to provide employees with an ½ hour nonworking shift break, if the employee has worked for more than six consecutive hours or a 15 minute break for four to six consecutive hours worked. The employer and employee may agree in writing to waive the requirements, if the employee works less than six consecutive hours. There are also exemptions if: the work prevents an employee from being relieved of work during the break; the employee is allowed to consume a meal while working; and upon mutual documented agreement. The Commissioner of labor, upon a complaint filed by an employee, may compel compliance, and assess a civil penalty of up to \$500 per employee for noncompliance and subsequent violations. The Commissioner may also bring an action in circuit court against the employer. Employees have a private cause of action against the employer for subsequent violations and can be awarded monetary damages and be reinstated. Attorney's fees and costs if the employee prevails in court.

Employers compete for employees and must provide benefits that are valued by their workforce as a necessary part of that retention and recruitment process. Employers with shift break policies in place, indicate that their employees would rather work without a break so they can finish early to pick up their children or attend to other needs. This underscores the fact that each workplace is distinct, making a statewide law too inflexible for employers to adequately respond to the needs and requests of their employees. Therefore, employers are in the best position to determine the feasibility of their employment policies and object to governmental intervention that fails to recognize the individualized needs of very distinct workplaces.

Providing a private cause of action to employees unnecessarily creates an adversarial environment in the employment relationship.

For these reasons, we request an **unfavorable report on SB 789**.

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