

JAN 16 2025

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# A BILL FOR AN ACT

RELATING TO MEAL BREAKS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawai'i's child labor  
2 laws have long protected the right of working minors to a break  
3 of at least thirty consecutive minutes for a rest or lunch  
4 period when the minor works for more than five consecutive  
5 hours. Currently, neither state law nor federal wage and hour  
6 law requires employers to provide employees over the age of  
7 sixteen any meal period or rest break no matter how many  
8 consecutive hours the employee may be required to work.

9           The legislature further finds that several other states  
10 require meal breaks for employees who are over the age of  
11 sixteen who work four or five consecutive hours, including  
12 California, Colorado, Kentucky, New Hampshire, North Dakota,  
13 Vermont, and Washington. The legislature believes that all  
14 employees who work five hours or more should not be denied a  
15 reasonable period of time to rest and consume a meal.



1           The purpose of this Act is to prohibit employers from  
2 requiring employees to work for more than five consecutive hours  
3 without a meal break.

4           SECTION 2. Section 387-3, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§387-3 Maximum hours.** (a) No employer shall, except as  
7 otherwise provided in this section, employ any employee for a  
8 workweek longer than forty hours unless the employee receives  
9 overtime compensation for the employee's employment in excess of  
10 the hours above specified at a rate not less than one and one-  
11 half times the regular rate at which the employee is employed.

12           For the purposes of this section[+]:[+]

13           (1) "Salary" means a predetermined wage, exclusive of the  
14 reasonable cost of board, lodging, or other  
15 facilities, at which an employee is employed each pay  
16 period; and

17           (2) If an employee performs two or more different kinds of  
18 work for the same employer, the total earnings for all  
19 [~~such~~] work for the pay period shall be considered to  
20 have been earned for performing one kind of work.



1 (b) The regular rate of an employee who is employed on a  
2 salary shall be computed as follows:

3 (1) If the employee is employed on a weekly salary, the  
4 weekly salary and the reasonable cost of board,  
5 lodging, or other facilities, if furnished to the  
6 employee, shall be divided by forty[-];

7 (2) If the employee is employed on a biweekly salary, the  
8 biweekly salary and the reasonable cost of board,  
9 lodging, or other facilities, if furnished to the  
10 employee, shall be divided by two and the quotient  
11 divided by forty[-];

12 (3) If the employee is employed on a semi-monthly salary,  
13 the semi-monthly salary and the reasonable cost of  
14 board, lodging, or other facilities, if furnished to  
15 the employee, shall be multiplied by twenty-four, the  
16 product divided by fifty-two and the quotient divided  
17 by forty[-]; and

18 (4) If the employee is employed on a monthly salary, the  
19 monthly salary and the reasonable cost of board,  
20 lodging, or other facilities if furnished to the  
21 employee, shall be multiplied by twelve, the product



1           divided by fifty-two and the quotient divided by  
2           forty.

3           (c) The regular rate of an employee who is employed on a  
4 salary and in addition receives other wages such as, but not  
5 limited to, commissions, bonus, piecework pay, and hourly or  
6 daily pay shall be computed in the manner provided in this  
7 subsection. As used hereinabove, the term "other wages" shall  
8 not include the reasonable cost of board, lodging, or other  
9 facilities.

10          (1) If the employee's salary and the reasonable cost of  
11 board, lodging, or other facilities, if furnished to  
12 the employee, equal or exceed fifty per cent of the  
13 employee's total earnings for the pay period, the  
14 total earnings shall be reduced to a regular rate in  
15 the manner provided in paragraph (1), (2), (3), or (4)  
16 of subsection (b), whichever is applicable.

17          (2) If the employee's salary and the reasonable cost of  
18 board, lodging, or other facilities, if furnished to  
19 the employee, are less than fifty per cent of the  
20 employee's total earnings for the pay period, the  
21 total earnings shall be reduced to a regular rate in



1 the manner provided in paragraph (1), (2), (3), or (4)  
2 of subsection (b), whichever is applicable, except  
3 that the actual number of hours worked in the workweek  
4 shall be substituted for the final divisor of forty.  
5 Such an employee shall receive overtime compensation  
6 for employment in excess of forty hours in a workweek  
7 at a rate not less than one-half times the employee's  
8 regular rate.

9 (d) The regular rate of an employee whose compensation is  
10 based on other than salary shall be computed in the manner  
11 provided in [~~paragraph (2) of~~] subsection [~~(c)~~] (c) (2). The  
12 reasonable cost of board, lodging, or other facilities, if  
13 furnished to the employee, shall be included in computing the  
14 employee's regular rate. Such an employee shall receive  
15 overtime compensation for such employment in excess of forty  
16 hours in a workweek at a rate not less than one-half times the  
17 employee's regular rate.

18 (e) An employer[+]:[+]

19 (1) Who is engaged in agriculture and in the first  
20 processing of milk, buttermilk, whey, skim milk, or  
21 cream into dairy products, or in the processing of



1           sugar cane molasses or sugar cane into sugar (but not  
2           refined sugar) or into syrup, or in the first  
3           processing of or in canning or packing any  
4           agricultural or horticultural commodity, or in  
5           handling, slaughtering, or dressing poultry or  
6           livestock;

7           (2) Who is engaged in agriculture and whose agricultural  
8           products are processed by an employer who is engaged  
9           in a seasonal pursuit or in processing, canning, or  
10          packing operations referred to in paragraph (1); or

11          (3) Who is at any place of employment engaged primarily in  
12          the first processing of, or in canning or packing  
13          seasonal fresh fruits;

14 shall not be required to pay overtime compensation for hours in  
15 excess of forty in a workweek to any of the employer's employees  
16 during any of twenty different workweeks, as selected by the  
17 employer, in any yearly period commencing July 1, for employment  
18 in any place where the employer is so engaged. The employer,  
19 however, shall pay overtime compensation for such employment in  
20 excess of forty-eight hours in any such exempt workweek at the  
21 rate and in the manner provided in subsections (a), (b), (c) and



1 (d), whichever is applicable, except that the word "forty-eight"  
2 shall be substituted for the word "forty" wherever it appears in  
3 subsections (b), (c), and (d).

4 (f) No employer shall employ any employee in split shifts  
5 unless all of the shifts within a period of twenty-four hours  
6 fall within a period of fourteen consecutive hours, except in  
7 case of extraordinary emergency.

8 (g) No employer shall require any employee to work more  
9 than five consecutive hours without a scheduled interval of not  
10 less than thirty consecutive minutes for a bona fide meal  
11 period, as described in title 29 Code of Federal Regulations  
12 section 785.19; provided that a collective bargaining agreement  
13 does not otherwise contain express provisions for employee meal  
14 periods.

15 [~~g~~] (h) This section shall not apply to any overtime  
16 hours worked by an employee of an air carrier subject to title  
17 II of the Railway Labor Act, title 45 [U.S.C.] United States  
18 Code section 181 et seq.; provided [~~such~~] that the overtime  
19 hours are the result of a voluntary agreement between employees  
20 to exchange work time or days off."



1 SECTION 3. Section 387-12, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Liability to employee. Any employer who violates any  
4 provision of sections 387-2 and 387-3 shall be liable to the  
5 employee or employees affected in the amount of their unpaid  
6 minimum wages or unpaid overtime compensation, and in case of  
7 wilful violation in an additional equal amount as liquidated  
8 damages[-]; provided that any employer who does not provide a  
9 meal period as required by section 387-3(g) shall be liable to  
10 the employee or employees affected as follows:

- 11 (1) \$100 to each employee for the first offense;
- 12 (2) \$250 to each employee for the second offense; and
- 13 (3) \$500 to each employee for the third and all subsequent  
14 offenses;

15 provided that each meal period not provided shall constitute a  
16 separate offense."

17 SECTION 4. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20 SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.





1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Paul Rhoads



# S.B. NO. 452

**Report Title:**

Employment Practices; Meal Breaks; Meal Periods; Penalties

**Description:**

Prohibits employers from requiring employees to work for more than five consecutive hours without a meal break unless otherwise provided in collective bargaining agreements. Establishes penalties.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

