

HOUSE BILL REPORT

HB 1824

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to exempting certain employees in the transportation industry who work in armored vehicles from meal and rest period requirements.

Brief Description: Exempting certain employees in the transportation industry who work in armored vehicles from meal and rest period requirements.

Sponsors: Representatives Condotta, Shea, Warnick and Tharinger.

Brief History:

Committee Activity:

Labor & Workforce Development: 2/15/11, 2/16/11 [DP].

Brief Summary of Bill

- Exempts certain employees who work in armored vehicles from meal and rest period requirements.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 8 members: Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Miloscia, Moeller, Roberts, Taylor and Warnick.

Minority Report: Do not pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney and Ormsby.

Staff: Alison Hellberg (786-7152).

Background:

Under the Washington Industrial Welfare Act, it is unlawful for an employer to employ workers under conditions of labor that are detrimental to their health. The Department of Labor and Industries (Department) is authorized to conduct investigations into employment conditions and to adopt rules establishing employment standards.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department rules governing rest and meal periods require a paid rest period of at least 10 minutes for each four hours of working time. Where the nature of the work allows, employees may take intermittent rest periods equivalent to 10 minutes for each four hours worked.

Employees are also allowed a meal period of at least 30 minutes, which begins between two and five hours from the beginning of a shift. If an employee works at least three hours longer than a normal work day, the employee is allowed at least one 30-minute meal period during the overtime period. An employee may not work longer than five consecutive hours without a meal period. Meal periods are on the employer's time when the employee is required by the employer to remain on duty on the premises at a prescribed work site in the interest of the employer.

For employees in the construction trades, the Department's rules for rest and meal periods may be superseded by a collective bargaining agreement negotiated under the National Labor Relations Act if the collective bargaining agreement covering those employees specifically requires rest and meal periods and prescribes requirements concerning those rest and meal periods. Public employees are permitted to enter into collective bargaining agreements, labor/management agreements, or other mutually agreed to employment agreements that specifically vary from or supersede the rest and meal break rules.

Summary of Bill:

Findings and Intent.

The Legislature makes findings and states its intent. The Legislature recognizes the importance of providing employees with meal and rest periods and compensating employees for all hours worked. The Legislature further recognizes, however, that there are certain industries where an employer cannot relieve an employee of all duties during a meal or rest period because the risk of harm to the employee and the public is too great. The armored vehicle industry is one of these industries where it is impossible for employers to comply with the meal and rest period requirements. Armored vehicles are frequent targets of armed robberies, and the risk of harm to the public and the armored vehicle employees are increased when the vehicles stay stationary for long periods of time. In order to promote safety and security, it is important that armored vehicle employees remain vigilant at all times.

It is the stated intent of the Legislature to exempt these employers from the meal and rest period requirements so long as employees are fully compensated for all hours worked.

Exemption.

Employers are not required to provide certain employees with the meal and rest periods required under Department rules. This exemption applies to employees in the transportation industry whose work places the employee inside an armored vehicle in shifts during a workday. Employers are not required to relieve these employees of all duty and may require them to be vigilant for the protection of themselves and the public. These employers must,

however, allow these employees to eat and take reasonable rest periods while on duty with pay.

An employer's responsibility to compensate employees for all hours worked, to pay overtime compensation required, and to comply with all other applicable requirements is not modified.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill addresses a very unique situation with armored vehicles. The windows of these vehicles do not roll down, so employees cannot go through a drive through. They also cannot leave the car for a break because of the safety issues.

Recent judicial decisions have made it impossible for the armored vehicle industry to comply with meal and rest break requirements. Class action lawsuits are continually being filed against armored vehicle companies. This is an extremely narrow solution to allow for compliance because at the moment the industry has no way to comply. The industry has been relying on the provision of the rule that requires that employees be paid for meal periods when they are required to remain on duty in the interest of the employer. This allows employees to remain vigilant throughout the day and be paid for all hours worked.

If these employees are not vigilant it puts their safety and the safety of the public at risk. These employees are armed and can be attacked. They are often targets for robberies. Shots are often fired and violence against armored vehicle drivers is common. The only way for these employees to take a break would be for them to return to the secured facility. They can be up to two hours away from the secured facility.

(Neutral) The Department has general concerns about exempting certain employers from meal and rest break requirements, but can work with the Legislature on this bill. This bill has some broad definitions related to "armored vehicles" and the "transportation industry." The Department is willing to work to clarify those definitions with the proponents.

(Opposed) The armored vehicle industry and workers need to be alert. This bill compromises their health and safety by not allowing them to rest. Meal and rest breaks are critical to prevent fatigue and important for employee health. These drivers need to eat and use restroom facilities. If the employees are fatigued, it can affect the safety of the public.

Employers in the armored vehicle industry are notorious for ignoring meal and rest period requirements. They do not allow employees to rest. These employees work full days, with overtime, without any opportunity to eat. They often have to resort to urinating in water

bottles. The proponents are trying to accomplish in the Legislature what they could not accomplish in the courts.

There is a process for employers to apply for variances with the Department. The appropriate course would be to apply for a variance, and the employers in this industry have not used this process.

Persons Testifying: (In support) Representative Condotta, prime sponsor; Michael Transue, National Association of Armored Cars; Chris Cage, Brinks Incorporated; and Mark Livingston, Garda Cash Logistics.

(Neutral) Tamara Jones, Department of Labor and Industries.

(Opposed) Carlo Davis, Washington State Labor Council; Nicole Grant, Certified Electrical Workers of Washington; and Sophia Aragon, Washington State Nurses Association.

Persons Signed In To Testify But Not Testifying: None.