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April 2, 2008

The Honorable Representative Robert E. Belfanti, Jr.
Room 30 East Wing, Main Capitol
Harrisburg, PA 17120

Dear Representative Belfanti,

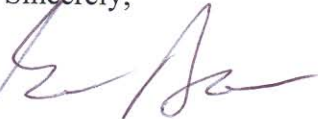
On behalf of the Pennsylvania Chamber of Business and Industry, and its more than 24,000 members and customers, I would like to address concerns with Amendment 04657 to House Bill 1757. Our members continue to oppose both HB 1756 and HB 1757 which mandates break and meal periods for employees. The Chamber's position is based on our policy that laws and regulations should be consistent with other states, and should also allow flexibility in the workplace. Our concerns with the proposed amendment in particular are as follows:

- In our interpretation of the Fair Labor Standards Act and Section 4 (2) of the amendment, employers would be required to pay employees for mandated rest breaks and, in fact, the amendment makes this clear.
- While the amendment attempts in Section 5 (b) to address certain situations by providing for exemptions it is unclear how this will work in a practical sense. For example, who determines that there has been "ample opportunity to take an appropriate break"? What constitutes an "urgent or unusual condition"?
- Section 4 of the amendment would require an employer to "provide at least a 15 minute uninterrupted rest period." Does this preclude any communication between employer and employee during that time? If an employer asks a job-related question does this 'start the clock' again?
- Section 5 (b) (2), provides the Secretary the ability to rescind an exemption without a hearing, while the employer has inadequate ability to appeal the decision or have an opportunity to remedy an issue. Section 7 (c) only states that "the employer shall be afforded a reasonable opportunity by the department" to remedy an issue, which is not a fair and equitable system.
- Section 7 (a) gives employees up to one year to file a complaint with the department. In such a case, the employer is faced with having to defend themselves against a violation of the act that may have happened twelve months ago. In very few, if any, circumstances will any employer remember whether any given employee was not granted a full, uninterrupted break or meal period.

- Section 3 (1) specifically outlines when breaks must be taken by employees in such a restrictive manner that it creates an overly complicated system for employers to provide their employees with rest and meal periods and allows no flexibility for when a break may be taken after reaching the threshold hours of work.
- The amendment does not provide an opportunity for the employee to freely choose not to take a full meal period or full break period(s).
- There is no mention as to whether a claim(s) can be rejected based on a lack of evidence.
- The fines of \$1,000 to \$2,500 per incident as stated in Section 7 (d) are excessive. This draws more concern when the investigation and claims process is unclear.
- If the intent of the bills is to provide breaks to workers, it should be noted that in Pennsylvania, workers such as seasonal farm and migrant workers (age 18 and over) currently receive 30-minute meal periods after 5 hours of work (U.S. Department of Labor).

Thank you for the opportunity to comment on the bill and amendment. We would welcome the opportunity to discuss our concerns in more detail.

Sincerely,



Gene Barr
Vice President, Government & Public Affairs

Cc: Vicki DiLeo

Cc: Representative John Galloway