Illinois Amends 'One Day Rest in Seven' Law, With Significant Revisions

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Governor J.B. Pritzker signed into law Senate Bill 3146, amending the Illinois "One Day Rest in Seven" Act (ODRISA), on May 13, 2022. Those amendments add additional meal period, day of rest, and notice requirements to, and significantly increase the potential civil penalties for violations of, the Act. The amendments to ODRISA become effective on January 1, 2023.

Additional Meal Periods Required During Long Shifts

With limited exceptions, ODRISA currently requires that employers provide employees who work for 7.5 continuous hours or longer a meal period of at least 20 minutes, said meal break to begin no later than 5 hours after the start of the work period.

The amended law will require subsequent, minimum 20-minute, meal breaks for every additional 4.5 continuous hours worked beyond the first 7.5 continuous hours. Moreover, the amendments specifically prohibit employers from designating "reasonable time spent using the restroom facilities" as a meal period.

Subsequent Days of Rest Must Occur Within a Seven-Day Period

In addition to the meal period requirement, and as the name of the law suggests, ODRISA currently requires that employers provide employees with at least 24 consecutive hours of rest during "every calendar week," in addition to the regular period of rest allowed at the close of each working day. As a result, an employer could require employees to work for up to 12 consecutive days and still comply with the requirement that a day of rest occurs within each calendar week. That will no longer be the case.

The amendments change "calendar week" to "consecutive seven-day period," thereby requiring that employers provide subsequent days of rest no more than 7 days apart, regardless of the calendar week(s) in which those days fall. The amendments further provide that each "week" (presumably, each consecutive 7-day period) during which an employee is not provided with the required 24 hours of rest constitutes a separate offense for purposes of assessing civil penalties. Similarly, each day

that an employee is not provided with the required meal period(s) constitutes a separate offense.

Potential Penalties Increased, Additional Notice Requirements Imposed

As originally enacted, the penalty for ODRISA violations was relatively modest: no less than $25 and no more than $100 per violation. Under the amended law, those penalties increase significantly. For employers with fewer than 25 employees, the civil penalty for a violation of the meal period requirement may be as high as $500 per offense — $250 to the Department of Labor and $250 to the affected employee. For larger employers, the penalty may be as high as $1,000 per offense, with $500 going to the Department of Labor and $500 to the affected employee.

Employers covered by the Act must post and keep posted, in one or more conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice summarizing the requirements of the Act and information pertaining to the filing of a complaint. The Director of Labor is expected to provide the notice. For employees who work remotely or who otherwise do not regularly report to a physical workplace (*e.g.,* traveling salespersons), the employer must provide the notice by mail or on a freely accessible website regularly used by the employer to communicate work-related information.

Unlike the day-of-rest and meal-period requirements, failure to comply with the notice-posting requirement is considered a *single* offense, subject to a penalty of no more than $250.

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