

LEGALLY SPEAKING

by Bob Dunlevey

WORK BREAKS COSTLY TO EMPLOYERS

Authorized breaks, unauthorized breaks, working through lunch – all of these things can be costly for employers and cause administrative headaches. Employers must have sound policies regulating breaks if they wish to have a productive work force and escape lawsuits for back wages. **Did you know –**

- In Ohio there is no obligation to provide lunch or rest breaks to employees 18 years of age or older – some states, such as Kentucky and West Virginia, however, do have such regulations
- Breaks of 20 minutes or less generally are compensable and the employer must pay the employee for that time
- Unauthorized extensions of authorized breaks need not be counted as hours worked if the break period is published and discipline is imposed for exceeding the time
- Smoke breaks of 20 minutes or less cannot be docked from an employee's work time and wages
- Bona fide meal periods are not compensable work time if the period exceeds 20 minutes and the employee, during that period, is not required to perform any duties. But, if your receptionist sits at her desk and eats lunch and also answers the telephones during the lunch period, or if you require a machine operator to stand by his or her equipment to monitor it while eating, the time becomes compensable

- An employee improperly working through a lunch break must still be paid for the time – an employer’s only recourse is to discipline the employee – not revise the time card
- Workers are now spending less time breaking for lunch than ever before – approximately 31 minutes
- Businesses lose per year approximately \$1,760.00 in lost productivity and \$1,623.00 in excess medical expenditures for each smoker that it employs. Smokers take approximately three to six smoke breaks per day of approximately 5 to 15 minutes, representing approximately 18 work days per year. Smokers miss 60% more work days per year than non-smokers. Due to these costs, many employers have abolished smoke breaks by establishing smoke-free campuses and by offering smoking cessation programs and incentives. Other employers choose not to hire smokers. While Ohio permits employers to eliminate smokers from consideration, along with 19 other states, an employer must be careful in making this a hiring criteria

Although these rules and regulations have been in effect for many years, employers continue to violate the law and subject themselves to class action lawsuits for back pay. If you have questions regarding your policies and procedures, contact Bob Dunlevey of Dunlevey, Mahan & Furry at (937) 223-6003.