



March 17, 2009

Dear Senator:

As you know, the *Restaurant Association of Maryland* strongly opposes Senate Bill 660, which would require that employers with 50 or more employees provide shift breaks.

During our testimony at the hearing on SB 660, we shared with members of the Committee that our California counterpart cites a significant increase in employment litigation after mandatory meal and rest break legislation became law there. As a follow up to our testimony, I am attaching a summary of California meal and rest break class-action lawsuit settlements to underscore our concerns.

I have also attached a copy of a memorandum from California State Labor Commissioner Angela Bradstreet in which she outlines widespread concerns regarding California's meal and rest break laws. This document confirms testimony we shared with the Committee about California restaurant workers refusing to take breaks for fear of losing much-needed tip income. The memorandum goes on to describe how many businesses are now taking disciplinary action or terminating employees for not taking breaks for fear of lawsuits.

The final attachment is a newspaper article from the International Herald Tribune that details similar lawsuits that were settled by Wal-Mart in Minnesota, Pennsylvania and several other states with rest break laws.

Our concerns about the private right of action language in SB 660 are valid. Adding an administrative remedy to the bill would not allay our concerns either because our businesses would still be burdened with the expense of legal counsel during such a process. Moreover, we still have serious practical issues with how hospitality businesses like ours would comply without compromising customer service.

This legislation needs a lot of work. We request that you reject this bill and instead find a way to bring labor and business interests together to work over the interim on well-intentioned legislation that all parties can accept.

Respectfully submitted,

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Restaurant Association of Maryland  
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## **California Businesses are Being Sued Everyday**

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According to Courthouse News Services, more than **1,500 meal period lawsuits**, which is more than one per day, were filed between **January 2005 and December 2008**.

Sampling of Costly Lawsuit Settlements:

• <b>Casual Dining Restaurant Company</b>	<b>\$ 10 million</b>
• <b>Fast Food Retailer</b>	<b>\$ 5 million</b>
• <b>Small Restaurant Group</b>	<b>\$2.5 million</b>
• <b>Financial Marketing and Service Holding Company</b>	<b>\$ 30 million</b>
• <b>Financial Services Company</b>	<b>\$ 13.6 million</b>
• <b>Hospital</b>	<b>\$ 20 million</b>
• <b>Hospital</b>	<b>\$ 60 million</b>
• <b>Lingerie and Beauty Products Retailer</b>	<b>\$ 41.25 million</b>
• <b>Membership Warehouse Club Retail Store</b>	<b>\$ 7.5 million</b>
• <b>Refinery</b>	<b>\$ 8.1 million</b>
• <b>Whole Sale Baker</b>	<b>\$ 8 million</b>
• <b>Technology Services Company</b>	<b>\$ 26 million</b>
• <b>Package Delivery Company</b>	<b>\$ 487 million</b>
• <b>Ready Mix Concrete (3) million/\$850,000</b>	<b>\$1.3 million/2.5</b>

[CLICK HERE](#) for link to California State Labor Commissioner's Report on meal and rest break problems and concerns..

INTERNATIONAL  
**Herald Tribune**

**Wal-Mart settles 63 lawsuits over wages**

**By Steven Greenhouse and Stephanie Rosenbloom**

Wednesday, December 24, 2008

Wal-Mart Stores, the nation's largest retailer, said Tuesday that it would pay up to \$640 million to settle some 63 wage-and-hour lawsuits that accused it of forcing employees to work off the clock and go without meal and rest breaks.

Some of the cases date back to 2000.

"Many of these lawsuits were filed years ago and the allegations are not representative of the company we are today," Tom Mars, executive vice president and general counsel for Wal-Mart Stores said in a statement.

The cases, which were brought by different groups of lawyers in various states, involved hundreds of thousands of current and former hourly employees. The total amount to be paid will depend on the number of claims submitted, but it will be at least \$352 million, Wal-Mart said.

Several lawyers said Wal-Mart had reached the settlement to help turn an embarrassing page as its current chief executive, Lee Scott, turns the job over to Michael Duke.

David Nassar, of Wal-Mart Watch, a union-financed advocacy group, said: "They're throwing this weight overboard to lighten their load."

Frank Azar of Franklin D. Azar & Associates, co-lead counsel in 14 states, said in a statement Tuesday that he was pleased with the settlement and thought it was fair.

"We are equally pleased that Wal-Mart has made tremendous strides in wage and hour compliance," Azar said, "and that it has implemented and agreed to continue to follow state of the art compliance programs so that these improvements will continue into the future."

Wal-Mart announced the settlement less than two weeks after it reached a \$54.25 million settlement covering 100,000 current and former employees in Minnesota who asserted they were due money over missed breaks and off-the-clock work.

In a case still pending, Wal-Mart has appealed a 2005 verdict in which a California jury ordered the retailer to pay \$172 million for making employees miss meal breaks.

In 2006, a jury in Pennsylvania awarded \$78 million against Wal-Mart in a lawsuit over rest breaks and off-the-clock work. Last year, a judge increased that award to \$188 million to include damages, interest and lawyers' fees. Wal-Mart has also appealed that ruling.

The dozens of wage-and-hour lawsuits have accused Wal-Mart and its managers of various illegal stratagems, among them forcing employees to work unpaid off the clock, erasing hours from their time cards and preventing workers from taking their lunch breaks and rest breaks.

Robert Bonsignore of Bonsignore and Brewer, co-counsel in a group of 35 cases consolidated in Nevada and cases covering four other states, said that as a result of the settlement, "Wal-Mart can now say that it has taken action to make its stores a great place to shop and work."

Wal-Mart said it expects a related after-tax charge from continuing operations in its fiscal fourth quarter of about \$250 million, or 6 cents a share.