



## SENATE BILL 789

Labor and Employment - Healthy Retail Employee Act

March 10, 2010

### POSITION: Oppose

Mr. Chairman and Members of the Senate Finance Committee:

On behalf of the members of the *Restaurant Association of Maryland*, we strongly oppose Senate Bill 789, which would require that employers with 50 or more employees provide shift breaks.

While many of our smaller restaurant members are exempted in this bill, this legislation would make compliance difficult for our larger restaurants, chain establishments and caterers. On busy nights when restaurant dining rooms are full, it would be difficult for most restaurants to ensure adequate service to customers if forced to comply with such a mandate. Moreover, most restaurant service staff arrive at about 4pm to work through dinner service. Requiring employers to provide staff with shift breaks after four hours would place most breaks in the middle of the busiest part of the night when most customers are having dinner. For our industry, this legislation would interfere with our ability to maintain the best possible customer service.

Our members are also very skeptical about why this year's legislation focuses only on retail workers. If requiring mandatory shift breaks is "healthy" policy for retail workers, why is it not good policy to include all employment sectors in such a mandate?

We are also extremely concerned about potential labor-related class-action lawsuits as a result of this legislation. Near the end of last year's General Assembly session, we shared relevant information obtained from the State of California regarding their mandatory shift break law. We are sharing another copy of this information in case you did not have a chance to review it last year.

The *California Restaurant Association* cites a significant increase in employment litigation after mandatory meal and rest break legislation became law there. The attached information from California underscores our concerns. In light of this information, we have serious concerns about the private right of action language contained in this bill and believe that enforcement remedies should be limited to action by the Commissioner of Labor only.

For these reasons, we oppose SB 789 and request an unfavorable report.

Sincerely,

Melvin R. Thompson  
Senior Vice President  
Government Affairs and Public Policy



## **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:

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