

Amendment to the Illinois One Day Rest in Seven Act Provides for Greater Penalties to Employers

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On May 13, 2022, Illinois Governor J.B. Pritzker signed into law SB3146, amending the provisions of the One Day Rest in Seven Act (ODRISA), which addresses both day of rest and meal break requirements for Illinois employees. The amendments include four (4) substantial changes to ODRISA which will go into effect January 1, 2023, explained in further detail below.

1. Change to the 24-Hour Rest Period Window

The new law amends the time period for which employees must receive a day off. Currently, employers must provide covered employees (non-exempt employees, except for certain employees in specific jobs and industries as noted in the statute) one day of rest within a calendar week, Sunday through Saturday. Thus, employers were able to schedule covered employees for more than seven consecutive days in a row, so long as there it was not during Sunday through Saturday, without a single day off work. With the new amendments, employers must provide covered employees with a 24-hour rest period in “every consecutive seven-day period.” Employers who wish to forgo this change must obtain a waiver from the Illinois Department of Labor to allow the employees to work more than six consecutive days. Such waivers are limited to only eight (8) weeks per year without a showing of “necessity” and upon a showing of “necessity” an employer can extend the seven consecutive day period beyond eight (8) weeks.

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1. Change to Required Meal Breaks

The amendments also provide for a 20-minute meal break for the first 7.5 hours worked, and then another 20 minute break for each additional 4.5-hour period worked after this initial 7.5 hour period. Currently, ODRISA only requires a second (or third) meal break for every additional 7.5 hour period. This means that an employee must be scheduled for two back-to-back 7.5 hour shifts in order to get a second meal break. With the new amendments, employees only need to work 12 hours (7.5 hour shift + 4.5 hour shift) to be eligible for two meal breaks.

1. Heightened Penalties for Violations

The amendment also increases penalties for violations. Currently, employers who violate ODRISA are only subject to fines of not less than \$25 or more than \$100 for each offense and employees cannot personally recover for an employer's violations. With the amendments, employers could be subject to a civil penalty, which for employers of fewer than 25 employees may not exceed \$250 per offense, and for employers of 25 employees or more, may not exceed \$500 per offense. Further, under the amendments, an employer that violates ODRISA will also be required to pay damages to affected employees, up to \$250 for employers of fewer than 25 employees, and up to \$500 for employers of 25 or more employees.

1. New Posting Requirement

Lastly, the amendments require that employers post a notice (which will be provided by the Illinois DOL) summarizing the requirements of ODRISA and information on how to file a complaint with the Illinois Department of Labor. For employees who are working remotely, notice can be provided via email or on a website. Employers who violate this notice provision may be subject to civil penalties not to exceed \$250 payable to the Illinois DOL.

As with any amendment to existing laws, we recommend that employers revise their policies prior to the effective date, which in this instance is January 1, 2023, especially due to the increased penalty provisions. If you have any questions about implementing these changes, please reach out to your Laner Muchin attorney.