

SENATE BILL 377

Introduced by Bartlett

2/12	Introduced
2/12	Referred to Labor & Employment Relations
2/12	First Reading
2/12	Fiscal Note Requested
2/15	Fiscal Note Received
2/16	Fiscal Note Printed
2/20	Hearing
2/22	Committee Report--Bill Passed as Amended
2/23	2nd Reading Passed
2/24	3rd Reading Passed
	Transmitted to House
3/01	Referred to Business & Economic Development
3/01	First Reading
3/05	Revised Fiscal Note Requested
3/06	Revised Fiscal Note Received
3/08	Revised Fiscal Note Printed
3/08	Hearing
3/08	Tabled in Committee

SENATE BILL NO. 377
INTRODUCED BY Cassidy

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN EMPLOYER TO PROVIDE EMPLOYEE REST PERIODS; PROVIDING CERTAIN EXEMPTIONS; AND AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT RULES TO PROVIDE LIMITED ADDITIONAL EXEMPTIONS."

10 STATEMENT OF INTENT

11 It is the intent of the legislature that rest periods be
12 provided to all employees except those exempted by [section
13 2] or those exempted by the department of labor and
14 industry. A statement of intent is required for this bill
15 because [section 2] authorizes the department of labor and
16 industry to adopt rules to provide limited exemptions on a
17 case-by-case basis. It is the intent of the legislature that
18 the department narrowly construe the provisions of [section
19 2] in granting additional exemptions.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 NEW SECTION. **Section 1. Rest periods for employees --**
23 **penalty.** (1) Except as provided in [section 2], an employer
24 shall provide an employee a paid rest period of not less
25 than 10 minutes within each continuous 4 hours of work.

(2) An employer who fails, neglects, or refuses to provide rest periods as provided in this section after being requested to provide rest periods by an employee or who permits an overseer, superintendent, or agent to violate the provisions of this section shall pay the employee for the rest periods at a rate of not less than 1 1/2 times the hourly rate at which the employee is paid.

8 NEW SECTION. **Section 2. Exemptions.** (1) [Section 1]
9 does not apply:

10 (a) in an emergency in which property, life, public
11 safety, or public health would be endangered;

12 (b) to a single job site serving the general public
13 when the employer has fewer than three employees on a shift;

14 (c) if an employee's total time worked in a day is less
15 than 4 hours;

16 (d) if providing rest periods pursuant to [section 1]
17 conflicts or interferes with the requirements of any federal
18 law; or

19 (e) to teachers certified by the office of public
20 instruction.

21 (2) An employer not exempt from providing rest periods
22 under subsection (1) may apply to the department of labor
23 and industry for an exemption if:

24 (a) the demands of public safety prevent the employer
25 from complying; or

1 (b) complying with rest periods would be operationally
2 impossible for the employer.

3 (3) The department shall adopt rules to implement this
4 section.

5 NEW SECTION. **Section 3.** Codification instruction.
6 [Sections 1 and 2] are intended to be codified as an
7 integral part of Title 39, chapter 2, part 2, and the
8 provisions of Title 39, chapter 2, part 2, apply to
9 [sections 1 and 2].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

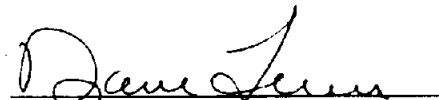
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0377, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring an employer to provide employee rest periods; providing certain exemptions; and authorizing the Department of Labor and Industry to adopt rules to provide limited additional exemptions.

ASSUMPTIONS:

1. The Department of Labor and Industry will be able to adopt rules to implement this bill with current staff.

FISCAL IMPACT: No fiscal impact.

 2-13-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/16/93
SUE BARTLETT, PRIMARY SPONSOR DATE

Fiscal Note for SB0377, as introduced

SB 377

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0377, third reading.

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring an employer to provide employee rest periods; providing certain exemptions; and authorizing the Department of Labor and Industry to adopt rules to provide limited additional exemptions.

ASSUMPTIONS:

1. Some employees and employers are likely to disagree over implementation of, length of, and the right to use rest periods. Employee/employer discrepancies over rest periods taken and/or provided are likely not to be documented. Some lack of documentation would complicate the department's investigation and determination of the correct amount of rest time earned by the employee and owed by the employer.
2. Initially, it will be necessary to meet with employer/employee groups for input into rule making and rule adoption. This is estimated to take about 5 months. During this time, the department will incur a backlog of both complaints and requests for exemptions.
3. During the rule making period and until rules are adopted, employers will be applying for exemptions and a backlog on exemption-processing will arise. DOLI anticipates an on-going workload of applications for exemptions after the backlog is addressed. Investigation Unit Staff will have to prepare for hearings and defend decisions.
4. 1.00 FTE Compliance Specialist (Grade 12), at a salary and benefits of \$19,702 (for 75% of FY94) and \$26,750 (FY95), operating costs, and one-time office equipment costs can address this workload.
5. Investigations of complaints will be on-going work. Working with 6 compliance specialists (including prevailing wage specialist) each compliance specialist closed an average of 200 cases each year or 17 cases per month. DOLI assumes that on a monthly basis, initially, there will be at least 36 calls a month which will result in at least 18 new cases per month.

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
FTE	0.00	1.00	1.00	0	1.00	1.00
Personal Services	0	\$19,702	\$19,702	0	\$26,750	\$26,750
Operating Cost	0	\$9,910	\$9,910	0	\$11,146	\$11,146
Equipment	0	\$4,500	\$4,500	0	0	0
Total	0	\$34,112	\$34,112	0	\$37,896	\$37,896

Funding:

UI Admin Tax	0	\$34,112	\$34,112	0	\$37,896	\$37,896
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Revenues: No change in revenues.

David Lewis 3-6-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Sue Bartlett 3/6/93
 SUE BARTLETT, PRIMARY SPONSOR DATE

Fiscal Note for SB0377, third reading.

SB 377 #2

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

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STATEMENT OF INTENT

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Rest periods for employees --
penalty. (1) Except as provided in [section 2], an employer shall provide an employee a paid rest period of not less than 10 minutes within each continuous 4 hours of work.

(2) An employer who fails, neglects, or refuses to provide rest periods as provided in this section after being requested to provide rest periods by an employee or who permits an overseer, superintendent, or agent to violate the provisions of this section shall pay the employee for the rest periods at a rate of not less than 1 1/2 times the hourly rate at which the employee is paid.

NEW SECTION. Section 2. Exemptions. (1) [Section 1] does not apply:

(a) in an emergency in which property, life, public safety, or public health would be endangered;

(b) to a single job site serving the general public when the employer has fewer than three employees on a shift;

(c) if an employee's total time worked in a day is less than 4 hours;

(d) if providing rest periods pursuant to [section 1] conflicts or interferes with the requirements of any federal law; or

(e) to teachers certified by the office of public instruction; OR

(F) IF PROVIDING REST PERIODS PURSUANT TO [SECTION 1] CONFLICTS WITH THE PROVISIONS OF A COLLECTIVE BARGAINING AGREEMENT.

(2) An employer not exempt from providing rest periods under subsection (1) may apply to the department of labor

1 and industry for an exemption if:

2 (a) the demands of public safety prevent the employer
3 from complying; or

4 (b) complying with rest periods would be operationally
5 impossible for the employer.

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