

ACT NO. 6843

BILL NO.26-0220

TWENTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2006

An act amending 24 V.I.C., chapter 1 for the establishment of Mandatory Meal and Rest Periods

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 24, Virgin Islands Code, chapter 1 is amended by adding new sections 20a and 20b to read as follows:

§ 20a. Mandatory Rest Periods

Except as otherwise provided for in a written contract or by a collective bargaining agreement:

- (a) An employer shall allow paid rest periods of a minimum of ten minutes within each four hours of continuous work.
- (b) Employers need not provide rest periods for employees whose total daily work time is less than four hours.
- (c) An employer may not add the rest period to a meal period nor allow the employee to take his rest period at the beginning or end of the work period.
- (d) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this section, the employee shall make up the missed rest period within the same work day, or within the same pay period or the employer shall pay the employee one-half hour pay at the employee's regular rate of compensation for each rest period that is not provided.
- (e) Subsections (a) through (d) of this section do not apply when all of the following conditions exist:
 - (1) The employee is 18 years or older;
 - (2) The employee is working alone;

- (3) the employee is employed in a retail or service establishment; and
- (4) the employee is allowed to leave the employee's assigned station when the employee must use the restroom facilities.

(f) The Commissioner of Labor may promulgate rules and regulations not inconsistent with this section.

§ 20b. Mandatory meal break

Except as otherwise provided for in a written contract or by a collective bargaining agreement:

(a)- An employer shall provide its employees who work for continuous period or seven hours or longer with;

(1) An uninterrupted meal period of not less than 30 minutes during which the employee is relieved of all duties. The meal period must begin no later than five hours after the start of the work. Period; or

(2) An "on-duty" meal period while continuing to perform duties or remaining on call. The employer must show that the nature or circumstances of the work prevent the employee from being relieved from duty.

(b) Meal periods are not included as part of the work period, as used in this section, unless the employee continues to perform duties during the meal period.

(c) The Commissioner or Labor may promulgate rules and regulations not inconsistent with this section."

SECTION 2. Title 24 Virgin Islands Code is amended by adding a section 20c to read as follows:

20c (a) An employee may voluntarily agree to forego any rest period or meal period. The employer has the burden of proving the existence of the agreement with employee.

(b) An employer may apply to the Commissioner of Labor for an exemption from providing to all or to one or more defined categories of his employees one or more benefits conferred in this section. The Commissioner of Labor may grant the exemption, if he believes that the employer has shown sufficient evidence that business necessity precludes providing the benefits, and that the exemption would not materially affect the welfare of comfort of employees.

(c) The Commissioner of Labor may by regulation exempt a defined category of employers from providing to all or to one or more defined categories of their employees one or more benefits conferred by sections 20c and 20b, upon his own motion or upon the application of an association of employers. Each such application must be considered at a hearing and may be granted, if the Commissioner of Labor finds that business necessity precludes providing that particular benefit or benefits to the employees affected, and that the exemption would not materially affect the welfare or comfort of employees.

SECTION 3. Section headings used in this act are not any part of the law.

Thus passed by the Legislature of the Virgin Islands on June 28, 2006

Witness our Hands and the Seal of the Legislature of the Virgin Islands this Day of July, A.D., 2006.