SENATE BILL No. 342

Introduced by Senator Ackerman

February 20, 2007

An act to amend Sections 226.7 and 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 342, as introduced, Ackerman. Employment: rest and meal periods.

Existing law prohibits, with specified exceptions, an employer from requiring any employee to work during a meal or rest period mandated by an applicable order of the Industrial Welfare Commission. Existing law requires, with specified exceptions, employers to provide rest and meal periods to employees during work periods of specified duration.

This bill would exempt from these provisions employees in the transportation industry whose work places them inside armored cars in shifts during a workday.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 226.7 of the Labor Code is amended to read:

226.7. (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the

employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

(c) Subdivisions (a) and (b) do not apply to employees in the transportation industry whose work places them inside armored cars in shifts during a workday.

SEC. 2. Section 512 of the Labor Code is amended to read:

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to an Industrial Welfare Commission wage order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five seven-hour days, payment of 1 and ½ the regular rate of pay for time worked in excess of seven hours per day, and a rest period of not less than 10 minutes every two hours.

(d) If an employee in the motion picture industry or the broadcasting industry, as those industries are defined in Industrial Welfare Commission Wage Orders 11 and 12, is covered by a valid collective bargaining agreement that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period required by the agreement, then the terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to

meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage Orders 11 and 12.

(e) Subdivision (a) does not apply to employees in the transportation industry whose work places them inside armored cars in shifts during a workday.

O