

BILL ANALYSIS

Senate Research Center
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S.B. 473
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 473 would require construction workers be provided a 15-minute rest break for every four hours of work.

A study by Workers Defense Project in collaboration with The University of Texas at Austin found that 41 percent of construction workers surveyed do not receive such rest breaks. While neither federal nor Texas law require rest breaks for workers, laws in at least 12 other states do. Additionally, two major cities in Texas, Dallas and Austin, already require rest breaks for construction workers by ordinance.

Considering Texas' tremendous heat during the summer months, denying regular breaks can be deadly. In fact, between fiscal years 2005 and 2015 in Occupational Safety and Health Administration (OSHA) Region 6, which includes Texas, 33 workers died of heat-related illness, and 3,307 workers suffered non-fatal heat-related illnesses. The Centers for Disease Control and Prevention's National Institute for Occupational Safety and Health (NIOSH) recommends that special precautions be taken for construction workers working in hot weather conditions to avoid heat stroke and heat exhaustion, which can require hospitalization. NIOSH recommends that workers exposed to extreme heat be provided with short, frequent rest breaks and each worker be provided with drinking water.

S.B. 473 would amend the Texas Labor Code to require all construction employers to provide at least a 15-minute paid rest break for every four hours of work to an employee. Under the bill, a rest break is in addition to a regular meal break.

S.B. 473 also provides that employees can complain to the Texas Workforce Commission (TWC) if their employer does not comply with the rest break requirement. TWC must then provide the employer a written notice of the violation. The employer has 30 days to correct the violation. If the employer does not correct the violation in 30 days, TWC may assess an administrative penalty. S.B. 473 also requires that employers provide notice to employees about their right to receive rest breaks and complain to TWC. The bill also prohibits retaliation by an employer if an employee requests or takes a rest break as specified above or files a complaint with TWC. Finally, the bill provides that TWC may award relief to an employee if it finds that the employer retaliated against the employee.

As proposed, S.B. 473 amends current law relating to paid rest breaks for construction employees of construction contractors and subcontractors, and provides an administrative penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 83.003, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 2, Labor Code, by adding Chapter 83, as follows:

CHAPTER 83. PAID REST BREAKS FOR CONSTRUCTION EMPLOYEES

Sec. 83.001. DEFINITIONS. Defines "commission," "construction employee," "construction employer," "contractor," "general construction," "rest break," and "subcontractor."

Sec. 83.002. PAID REST BREAKS REQUIRED. (a) Requires a construction employer (employer) to provide at least a 15-minute paid rest break for every four hours of work to each construction employee (employee).

(b) Prohibits the construction employer from requiring the paid rest break to be taken as part of a separate meal break.

Sec. 83.003. NOTICE TO CONSTRUCTION EMPLOYEES. (a) Requires each employer, at the time of hiring, to provide notice in both English and Spanish to each employee of the employee's entitlement to paid rest breaks under this chapter; that retaliation by the employer against the employee for requesting or taking paid rest breaks to which the employee is entitled is prohibited; and that the employee has a right to file a complaint with the Texas Workforce Commission (TWC) for any violation of this chapter.

(b) Authorizes an employer to comply with this section by displaying a poster in a conspicuous place, accessible to employees, at the employer's place of business and at the applicable construction work site that contains the required information in both Spanish and English.

(c) Requires TWC to, by rule, prescribe the design and content of the sign described by Subsection (b).

Sec. 83.004. RETALIATION PROHIBITED. Prohibits an employer from taking retaliatory personnel action or otherwise discriminating against a employee because the employee requests or takes paid rest breaks in accordance with this chapter; or files a complaint with TWC alleging the employer's violation of this chapter.

Sec. 83.005. COMPLAINT; HEARING; PENALTY. (a) Authorizes any employee aggrieved by a violation of this chapter to file a claim with TWC in the manner prescribed by Subchapter D (Wage Claims), Chapter 61 (Payment of Wages). Requires TWC, except as otherwise provided by this chapter, to investigate and dispose of the complaint in the same manner as a wage claim under Subchapter D, Chapter 61.

(b) Requires an employer that violates any applicable requirement of this chapter to be provided with an opportunity to correct the violation under Subsection (d).

(c) Requires TWC to notify the employer if TWC determined that the employer has violated this chapter.

(d) Prohibits TWC from assessing an administrative penalty against the employer if the employer corrects the violation not later than the 30th business day after the date the employer receives notice under Subsection (c).

(e) Authorizes TWC to assess an administrative penalty against an employer for a violation of this chapter only if the employer fails to correct the violation before the 31st business day after the date the employer receives notice that the employer has violated this chapter.

(f) Authorizes TWC to award the employee all appropriate relief, including rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of employee benefits for which the employee would have been eligible if the employee had not been subject to retaliatory personnel action or other discrimination.

(g) Authorizes a party to appeal a final decision of TWC in the manner prescribed by Section 61.062 (Judicial Review).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.