



Maryland Chamber of Commerce

Legislative Position

SB 831

OPPOSE

Finance

03/03/09

SB 831

Maryland Wage and Hour Law - Payment of Overtime – Exemptions

Brief Summary of Bill:

Senate Bill 831 requires overtime to be calculated based on the greater of each hour over eight hours that an employee works during a workday; and each hour over 40 hours that an employee works during a work week, with specified exceptions.

Maryland Chamber's Position:

Although SB 831 is described as providing certain exemptions from the overtime requirements of Maryland's wage and hour law, its primary purpose is to impose a new "daily overtime" requirement on Maryland employers. The law requires that Maryland employers of 50 or more employees will have to pay employees overtime for hours worked in excess of eight hours per day, instead of the current requirement that overtime only be paid for hours in excess of 40 in a week. If SB 831 is passed, Maryland would be one of only four states in the country - the other three being California, Nevada, and Alaska -- that provide for overtime after eight hours in the day. Accordingly, the Maryland Chamber of Commerce strongly opposes SB 831.

First, a daily overtime requirement would put Maryland at a significant competitive disadvantage with surrounding states. Every other state on the Eastern seaboard – in fact, every state east of the Mississippi -- requires only that overtime be paid after 40 hours in a week. Should SB 831 become law, Maryland employers would have significantly increased labor costs compared to employers in surrounding states.

Although the law purports to allow employees to waive the daily overtime requirement in Section 3-420(B), this waiver provision is quite limited. It provides that an employee, pursuant to a written agreement with an employer, can agree to work more than eight hours per day in less than five days, for a total of 40 hours per week, and not be entitled to overtime. Similarly, the employee can agree to work more than 8 hours in a day without incurring overtime if the employee does not work more than 80 hours within two scheduled workweeks. However, if an employer had an unexpected increase in work in the second week and the employee is needed to work three ten hour days and one 11 hour day to meet a production deadline– a total of 41 hours for the week -- *the employee would be entitled to nine hours of overtime for the second week* (two hours of overtime for each of the three days that they worked ten hours, and three hours of overtime for the one day that they worked 11 hours). That would be a 900% increase

in overtime liability, as a Maryland employer is currently liable for only 1 hour of overtime in this scenario. Given the current grim economic conditions faced by most Maryland employers, this is no time to saddle businesses with such a substantial new labor cost.

In summary, SB 831 is bad for Maryland business. It would place Maryland at odds with 46 of the other 50 states by requiring Maryland employers to pay substantially greater overtime than their counterparts.

For these reasons, the Maryland Chamber respectfully requests that the Committee give SB 831 an unfavorable report.

If questions please contact Allyson Black, ablack@mdchamber.org