THE COMMONWEALTH OF MASSACHUSETTS
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August 9, 2000

RE: Meal Break Law of Massachusetts, G.L. c. 149, § 100

Dear Mr.

This letter is in response to yours of June 9, 2000 to Laura Miller, asking our office to reconsider its position concerning Massachusetts General Laws Chapter 149, Section 100. That statute states that no employee shall be required to work for more than six hours without a break of thirty minutes. Employees who are not permitted to leave the work site during this period must be compensated for the time on break. You requested that our office adopt your interpretation of the law to permit employers the option of requiring their employees take meal breaks on the company premises without compensation provided that such employees be relieved fully of their duties during such time. After reviewing the matter, we find that such an interpretation would be inconsistent with the applicable statute and regulations.

It is the mandate of the Office of the Attorney General to enforce the Commonwealth's wage and hour laws. To determine the scope of G.L. c. 149, § 100, we reference the definition of working time in the minimum wage regulations promulgated by the Division of Occupational Safety. 455 C.M.R. 2.01.[1] That definition states that working time "includes all time during which an employee is required to be on the employer's premises or to be on duty, or to be at the prescribed workplace . . . ." Those three disjunctive clauses in the regulations indicate that <u>any</u> of three listed circumstances satisfies the definition of working time. Consequently, an employee is considered to be working when s/he is required to be on the employer's premises. In order to receive his or her break, the employee must be permitted to leave the premises. Thus, there appears to be no conflict between the meal break law and the minimum wage regulations.

You made several policy arguments about the propriety of the statute. We appreciate the difficulties inherent in employer-employee relationships. However, it is within the employer's discretion to decide when it will act upon information about employees' consumption of alcohol.

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[1] The most current regulations became effective on December 24, 1999.

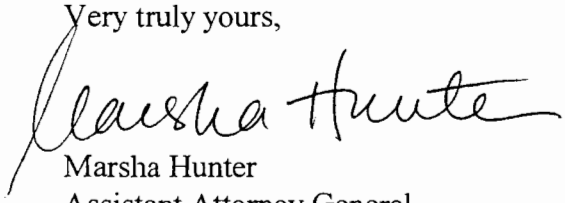
Management may discipline employees or take preventive measures, but it may not prohibit employees from taking their meal break period as the statute and regulations permit.

We certainly recognize that employers in Massachusetts must observe the stricter of the two wage and hour laws, federal or state. In this situation, it is the state's law which is more restrictive.

Finally, the authority of the Attorney General to render formal opinions extends only to state officials, district attorneys, and branches and committees of the Legislature. M.G.L. c. 12, §§3, 6, and 9. Accordingly, the preceeding is by way of information only and should not be construed as a legal opinion of the Attorney General.

Should you have further questions, do not hesitate to call me.

Very truly yours,



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