



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

BLI 8-2025

CHAPTER 839

BUREAU OF LABOR AND INDUSTRIES

FILED

05/30/2025 12:25 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updates rule to implement provisions of chapter 57, Oregon Laws 2023 and conform to statute.

EFFECTIVE DATE: 06/01/2025 THROUGH 11/23/2025

AGENCY APPROVED DATE: 05/30/2025

CONTACT: Josh Nasbe

971-269-4431

josh.d.nasbe@boli.oregon.gov

1800 SW 1st Ave, Suite 500

Portland, OR 97201

Filed By:

Josh Nasbe

Rules Coordinator

NEED FOR THE RULE(S):

These amendments to rules applicable to meal and rest breaks in the workplace are necessary to incorporate statutory exclusions.

JUSTIFICATION OF TEMPORARY FILING:

Statutory changes, including exclusions from the scope of these rules, become operative on June 1, 2025. The failure to immediately amend this rule will result in confusion because the rule will appear to apply to situations that are excluded by statute. These consequences would be suffered by workers and employers in government and in health care, who would not be able to rely on the text of the rule alone, but would need to synthesize it with the statutes. Adopting this temporary rule will provide clarity by conforming the scope of the rule to statute.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Chapter 507, Oregon Laws 2023 is available here:

<https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB2697>

AMEND: 839-020-0050

RULE SUMMARY: Updates rule to implement provisions of chapter 57, Oregon Laws 2023 and conform to statute.

CHANGES TO RULE:

839-020-0050

Meal and Rest Periods ¶¶

(1) The purpose of this rule is to prescribe minimum meal periods and rest periods for the preservation of the health of employees.¶¶

(2)(a) Except as otherwise provided in this rule, every employer shall provide to each employee, for each work period of not less than six or more than eight hours, a meal period of not less than 30 continuous minutes during which the employee is relieved of all duties.¶¶

(b) Except as otherwise provided in this rule, if an employee is not relieved of all duties for 30 continuous minutes

during the meal period, the employer must pay the employee for the entire 30-minute meal period.¶¶

(c) An employer is not required to provide a meal period to an employee for a work period of less than six hours. When an employee's work period is more than eight hours, the employer shall provide the employee the number of meal periods listed in Appendix A of this rule.¶¶

(d) The timing of the meal period shall be as follows:¶¶

(A) If the work period is seven hours or less, the meal period must be taken after the conclusion of the second hour worked and completed prior to the commencement of the fifth hour worked.¶¶

(B) If the work period is more than seven hours, the meal period must be taken after the conclusion of the third hour worked and completed prior to the commencement of the sixth hour worked.¶¶

(C) Notwithstanding paragraphs (A) and (B) of this subsection, for employees of an acute inpatient care facility the meal period must be provided in accordance with this paragraph, when applicable. If the work period is more than seven hours, but less than ten hours, the meal period must be taken after the conclusion of the third hour worked and completed prior to the commencement of the sixth hour worked. If the work period is ten hours or more, the meal period must be taken after the conclusion of the third hour worked and completed prior to the conclusion of the ninth hour worked.¶¶

(3) If an employer does not provide a meal period to an employee under section (2) of this rule, the employer has the burden to show that:¶¶

(a) To do so would impose an undue hardship on the operation of the employer's business as provided in section (4), and that the employer has complied with section (5) of this rule;¶¶

(b) Industry practice or custom has established a paid meal period of less than 30 minutes (but no less than 20 minutes) during which employees are relieved of all duty; or¶¶

(c) The failure to provide a meal period was caused by unforeseeable equipment failures, acts of nature or other exceptional and unanticipated circumstances that only rarely and temporarily preclude the provision of a meal period required under section (2) of this rule. If an employee is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay the employee for the entire 30-minute meal period.¶¶

(4) As used in section (3)(a) of this rule, "undue hardship" means significant difficulty or expense when considered in relation to the size, financial resources, nature or structure of the employer's business. For the purpose of determining whether providing a meal period requires significant difficulty or expense, the following factors may be considered:¶¶

(a) The employer's cost of complying with the requirement to provide a meal period under section (2) of this rule.¶¶

(b) The overall financial resources of the employer.¶¶

(c) The number of persons employed at the particular worksite and their qualifications to relieve the employee; the total number of persons employed by the employer; and the number, type and geographic separateness of the employer's worksites.¶¶

(d) The effect of providing the meal period required under section (2) of this rule on worksite operations involving: the startup or shutdown of machinery in continuous-operation industrial processes; intermittent and unpredictable workflow not in the control of the employer or employee; the perishable nature of materials used on the job; and the safety and health of other employees, patients, clients or the public.¶¶

(5) When an employer does not provide a meal period to an employee under section (2) of this rule, and is able to make the required showing under section (3)(a) of this rule:¶¶

(a) The employer shall instead provide the employee adequate paid periods in which to rest, consume a meal, and use the restroom; and¶¶

(b) The employer shall first provide to each employee a notice provided by the commissioner of the Bureau of Labor and Industries regarding rest and meal periods in the language used by the employer to communicate with the employee. The employer shall retain and keep available to the commissioner a copy of the notice for the duration of the employee's employment and for no less than six months after the termination date of the employee. Notices that comply with this subsection are available upon request from the bureau.¶¶

(6)(a) Except as provided in subsection (b) of this section, every employer shall provide to each employee, for each segment of four hours or major part thereof worked in a work period, a rest period of not less than ten continuous minutes during which the employee is relieved of all duties, without deduction from the employee's pay.¶¶

(A) As the nature of the work allows, the employer shall provide the rest period approximately in the middle of each segment of four hours or major part thereof worked in a work period. When the employee's work period is more than eight hours, the employer shall provide the employee the number of rest periods listed in Appendix A of this rule.¶¶

(B) The employer shall provide rest periods in addition to and taken separately from the time provided for a meal period. An employer may not require or allow an employee to add the rest period to a meal period or deduct the rest period from the beginning or end of the employee's work period to reduce the overall length of the work period.¶¶

(C) An employer has the burden to show that the employer provided the rest periods required under this section.¶¶

(b) An employer is not required to provide a rest period to an employee when all of the following conditions are met:¶

(A) The employee is 18 years of age or older;¶

(B) The employee works less than five hours in any period of 16 continuous hours;¶

(C) The employee is working alone;¶

(D) The employee is employed in a retail or service establishment, i.e., a place where goods and services are sold to the general public, not for resale; and¶

(E) The employee is allowed to leave the employee's assigned station when the employee must use the restroom facilities.¶

(7) The provisions of this rule regarding meal periods and rest periods may be modified by the terms of a collective bargaining agreement if the provisions of the collective bargaining agreement entered into by the employees specifically prescribe rules concerning meal periods and rest periods.¶

(8)(a) Pursuant to the provisions of ORS 653.261, if an employer agrees, an employee may waive a meal period if all of the following conditions are met:¶

(A) The employee is employed to serve food or beverages, receives tips, and reports the tips to the employee's employer;¶

(B) The employee is at least 18 years of age;¶

(C) The employee voluntarily requests to waive the employee's meal periods no less than seven calendar days after beginning employment;¶

(D) The employee's request to waive the employee's meal periods is in writing in the language used by the employer to communicate with the employee, on a form provided by the commissioner, and is signed and dated by both the employee and employer;¶

(E) The employer retains and keeps available to the commissioner a copy of the employee's request to waive the employee's meal period during the duration of the employee's employment and for no less than six months after the termination date of the employee;¶

(F) The employee is provided with a reasonable opportunity to consume food during any work period of six hours or more while continuing to work;¶

(G) The employee is paid for any and all meal periods during which the employee is not completely relieved of all duties;¶

(H) The employee is not required to work longer than eight hours without receiving a 30-minute meal period during which the employee is relieved of all duties;¶

(I) The employer makes and keeps available to the commissioner accurate records of hours worked by each employee that clearly indicate whether or not the employee has received meal periods; and¶

(J) The employer posts a notice provided by the commissioner regarding rest and meal periods in a conspicuous and accessible place where all employees can view it.¶

(b) Either the employer or employee may revoke the agreement for the employee to waive the employee's meal periods by providing at least seven (7) calendar days written notice to the other.¶

(c) Notwithstanding subsection (b) of this section, an employee who has requested to waive meal periods under this section may request to take a meal period without revoking the agreement to waive such periods. The request to take a meal period must be submitted in writing to the employer no less than 24 hours prior to the meal period requested.¶

(d) An employer may not coerce an employee into waiving a meal period.¶

(e) An employer will be considered to have coerced an employee into waiving the employee's meal period under the following circumstances:¶

(A) The employer requests or requires an employee to sign a request to waive meal periods;¶

(B) An employee is required to waive meal periods as a condition of employment at the time of hire or at any time while employed;¶

(C) The employer requests or requires any person, including another employee, to request or require an employee to waive meal periods; or¶

(D) The employee signs a form requesting to waive meal periods prior to being employed for seven calendar days.¶

(f) Employee waiver forms and notices regarding rest and meal periods that comply with this section are available upon request from the bureau.¶

(9) Notwithstanding sections (2) and (6) of this rule, a public school district, education service district, or public charter school may provide any person substituting for a regular teacher with the same rest and meal periods to which the regular teacher is entitled under any applicable law, employment contract, policy, or collective bargaining agreement.¶

(10) Rest and meal period requirements specific to minors under 18 years of age are provided in OAR 839-021-0072.¶

(11) As used in this rule:¶¶

(a) "Work period" means the period between the time the employee begins work and the time the employee ends work.¶¶

(b) "Work period" includes a rest period as provided in section (6) of this rule, and any period of one hour or less (not designated as a meal period) during which the employee is relieved of all duties.¶¶

(c) "Work period" does not include a meal period unless the meal period is paid work time as provided in section (2) or (5) of this rule.¶¶

(12) This rule does not apply to:¶¶

(a) An individual employed by this state or a political subdivision or quasi-municipal corporation thereof if other provisions of law or applicable collective bargaining agreements prescribe rules pertaining to conditions of employment referred to in ORS 653.261(1), including meal periods, rest periods, maximum hours of work and overtime.¶¶

(b) A nurse who provides acute care in hospital settings, if provisions of an applicable collective bargaining agreement prescribe rules concerning meal periods and rest periods, unless the nurse files a complaint in accordance with ORS 441.790. ¶¶

(c) An employee as defined in ORS 653.258 who files a complaint in accordance with ORS 441.790, including a nurse who provides acute care in hospital settings, if the employee is covered by a collective bargaining agreement that includes a monetary remedy for missed meal periods and missed rest periods.

Statutory/Other Authority: ORS 651.060, ORS 653.040, ORS 653.261

Statutes/Other Implemented: ORS 653.261, ORS 653.258

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

Appendix A

Length of work period	Number of rest breaks required	Number of meal periods required
2 hrs or less	0	0
2 hrs 1 min - 5 hrs 59 min	1	0
6 hrs	1	1
6 hrs 1 min - 10 hrs	2	1
10 hrs 1 min - 13 hrs 59 min	3	1
14 hrs	3	2
14 hrs 1 min - 18 hrs	4	2
18 hrs 1 min - 21 hrs 59 min	5	2
22 hrs	5	3
22 hrs 1 min - 24 hrs	6	3