

National Lawyers Guild

Labor & Employment Committee

April 25, 2009

State Senator Mark DeSaulnier, Chair
Senate Labor and Industrial Relations Committee
1020 N Street Room 545
Sacramento, CA 95814

RE: SB 665 (Cedillo) - OPPOSE

Dear State Senator DeSaulnier:

On behalf of the National Lawyers Guild Labor & Employment Committee [L&EC], I am writing to express our opposition to Senate Bill 665 (Cedillo) which would permit on-duty meal periods for all security guards, and will be heard on April 29 in Committee. We urge you and all committee members to vote against this bill.

In California, all workers are entitled to a thirty-minute meal period. During that lunch break, workers must be relieved of all duty. For example, a receptionist cannot be required to sit at her desk and answer phones while eating lunch. Under most circumstances, workers must be permitted to leave work premises during the meal period.

There are many important policy reasons to relieve workers from duty during the meal break. Breaks have health and safety benefits for all workers as they reduce accidents caused by an employee being hungry, distracted, or fatigued. Breaks mitigate repetitive stress injuries. Regular breaks have taken on a greater importance as many workers routinely do overtime work, resulting in shifts of up to twelve hours a day.

Beyond health and safety reasons, the meal period was established as a basic labor standard in 1947, to ensure that workers had a brief time during the day when they were free from employer control and could rest, eat, and recover for the rest of the work day. Today, many workers use their lunch break to attend to family needs, pick up their kids, pay bills, or do personal errands. Whatever they choose to do, this time is their own.

On-duty meal periods are permitted under current law but only when an off-duty meal break is virtually impossible due to the nature of the work. Under existing law, workers cannot be persuaded by an employer to agree to on-duty breaks simply for the employer's convenience.

SB 665 would change the law by permitting all licensed security guards to do on-duty breaks. While they would still have to agree to on-duty lunches, we know that in practice such agreements typically consist of a signature in an employee handbook on the first day of hire. That hardly constitutes a truly voluntary waiver of one's right to the off-duty lunch enjoyed by all other workers. We also know that workers routinely face employer pressure and intimidation to waive core labor rights and that unrepresented, at-will workers have little ability to withstand employer coercion.

We have no doubt that there are some workers who would like to do on-duty meal breaks. But we also know there are workers who depend on the availability of an off-duty break to recuperate from hard work, rest their feet, or run home to check on their kids. We support collective bargaining language that allows union members to negotiate terms that best meet the needs of the membership because any such agreement will have to be ratified by the workers themselves. This bill, however, also applies to non-union workers who will not have the opportunity to vote on whether they want to give up the right to an off-duty lunch.

For these reasons, we urge you to oppose SB 665 (Cedillo) when it comes before you in the Senate Labor and Industrial Relations Committee.

Sincerely,

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cc:

State Senator Gil Cedillo

Committee Members:

State Senator Mark Wyland, CoChair

State Senator Dave Cogdill

State Senator Denise Moreno Ducheny

State Senator Mark Leno

State Senator Leland Yee

State Senator Dave Cogdill
State Capitol Room 305
Sacramento, CA 95814

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State Senator Denise Moreno Ducheny
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