

National Lawyers Guild

Labor & Employment Committee

February 23, 2010

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

via fax (916) 323-5703

Re: SBX8 70 (Dutton) - 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 70 which would undermine the fundamental right to a lunch break for California workers. This bill will be heard on February 24 in the Senate Labor & Industrial Relations committee. We urge you and all committee members to vote against this bill.

Since 1937, the National Lawyers Guild has provided legal support to movements for social change, principally on a volunteer basis. The Labor & Employment Committee focuses on struggles for economic and social justice. In the 1930s the Guild focused on workers' rights, supporting New Deal legislation to assist working people and the unemployed; in the 1950s the Guild defended labor leaders and others attacked for their progressive political views. Then and now, the Guild L&EC actively supports progressive labor and employment law struggles. The L&EC is comprised of close to a thousand labor and employment attorneys across the country.

We oppose this proposed legislation because it improperly redefines the meaning of the word "provide" to mean that the employer must simply "give the employee an opportunity to take" a lunch break. This is confusing and will result in more litigation. And because workers in California are "at will," it is likely that they will not avail themselves of the "opportunity" for a lunch break in the face of any kind of suggestion that they help their employer by simply waiving the break when the need arises. The law also expands the eligibility of on-duty lunches which will likely increase even more pressure on workers to accept on-duty meals to increase productivity. SBX8 70 will also result in less legal protection for California's most vulnerable workers who are at constant risk of layoff as they will have few resources to withstand employer pressure to waive their rights. Finally, by calling the payments for missed meal period penalties and not wages, the statute of limitations is shortened thus denying workers the full measure of damages they may suffer by being denied meal breaks.

Current law provides the necessary flexibility to balance the needs of workers and employers. It already allows lunch breaks to be waived mutually for workers on shifts under six hours and on-duty lunch breaks if the nature of work requires and the worker agrees.

And of critical importance, without breaks to eat or rest, workers are more likely to injure themselves or their co-workers. This bill is truly a risk to the health and safety of California's workers in many industries where rest breaks and meals are needed to concentrate on the tasks at hand, recover from hot environments, and step away from toxic substances.

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We urge you to oppose SBX8 70 (Dutton) when it comes before you in the Senate Labor and Industrial Relations Committee on Wednesday, February 24, 2010. We apologize for the lateness of this letter, but only recently became aware of this matter being on your schedule. Please feel free to contact me with any questions.

Sincerely,



Frances C. Schreiber
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cc: State Senator Bob Dutton

Committee Members:

State Senator Mark Wyland, CoChair
State Senator Denise Moreno Ducheny
State Senator Dennis Hollingsworth
State Senator Mark Leno
State Senator Leland Yee