



California Labor Federation | AFL-CIO

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SCHWARZENEGGER ADMINISTRATION FORCED TO ADMIT – NO “EMERGENCY” REQUIRING LUNCH BREAK RULE CHANGES

The Schwarzenegger Administration was forced today to admit that there was no emergency that required a change to rules on lunch breaks for workers in California. The Governor rescinded the “emergency” status of the regulations to take away lunch breaks just minutes before the Office of Administrative Law (OAL) was set to rule on them.

It was widely believed that the Governor’s emergency regulations were illegal. “At the last minute the Governor rescinded the regulations because he knew they could not be approved by one of his own appointees,” said Art Pulaski of the California Labor Federation. The brief submitted by the Labor Federation detailed the reasons why the regulations were both unfair and illegal.

The Governor’s retraction was a victory for Labor and consumer protection groups who argued that in addition to weakening a crucial workplace right for workers, the emergency passage of the rules did not allow the public time for comment.

“Governor Schwarzenegger is expected to continue his efforts to take away guaranteed lunch breaks, but at least he has been forced to do it openly, rather than in a sneak attack,” said Pulaski. “We will fight him every step of the way. We won the ‘emergency’ battle to save lunch breaks and now we intend to win the war.”

The move was a victory for unions who argued that in addition to weakening a crucial workplace right for workers, the emergency rules avoided public knowledge and scrutiny.

The Administration was harshly criticized by unions for circumventing normal regulatory channels in an apparent attempt to sneak the changes past the public. It also violated a law clearly establishing those employee protections.

The definition of emergency regulations states that they must be necessary for the immediate preservation of public safety and welfare. According to Pulaski, “The only ‘emergency’ appeared to be that the Governor’s corporate donors wanted to get out of their responsibility to provide lunch breaks by Christmas.”

“Arnold Schwarzenegger campaigned on a pledge to open up government and end special interests. Instead, he’s been caught doing special favors for big companies in the dark of night,” said Pulaski.

The Governor's staff claimed he was only seeking "flexibility" for employers on lunch breaks, but he snuck in a legal loophole that could do away with them completely said Pulaski. "He was hoping no one would notice that his changes got Wal-Mart and other corporations off the hook for cheating workers out of breaks and meal periods," Pulaski added.

Existing language on lunch breaks under the Industrial Welfare Commission (IWC) is very clear, stating: "An employee must receive a thirty-minute meal period for every 5 hours of work." The regulations were revised to read ambiguously with a legal loophole that gives employers a way out of providing lunch breaks.

The loophole means that employers could claim to have fulfilled their legal requirements by simply informing workers about the right to a lunch period, even if they didn't actually provide one, said Pulaski. "The claim that these rule changes are about simplifying language is a smokescreen – the original language was as straightforward as it gets."

The other change was a straight giveaway to the Governor's largest business allies. It reduced the amount of time that employers can be held liable for refusing to provide breaks (from three years down to one year), which means that Wal-Mart and other companies that are being sued for cheating their workers out of lunch breaks would get out of suits they are currently facing. Wal-Mart alone donated over \$155,000 to the Republican Party and Gov. Schwarzenegger this year. "The Governor seems willing to do anything to give any break to special interests," commented Pulaski. "Including taking lunch breaks from Californians."

Though the Administration's retreat was a victory for workers in California, Pulaski warns the fight is not over. "Gov. Schwarzenegger hasn't given up on this Christmas gift to Big Business – it has only been placed on a 'non-emergency' track."

"Taking away meal breaks is one move closer to turning California workplaces into modern-day sweatshops," said Art Pulaski.

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