



**COMPLAINT OF VIOLATION OF THE
HEALTHY RETAIL EMPLOYEE ACT,
Maryland Labor and Employment Code Annotated
§ 3-710 (2012)
("SHIFT BREAKS")**



Instructions for completing this complaint form:

- A. Please be sure to complete all sections that are applicable to your complaint. You may submit the form by mail (address at the bottom of the last page), email: (DLDLIMdLaborComplaint-dllr@maryland.gov), or fax (410-333-7303).
- B. This complaint form will be returned to you if it is incomplete or illegible.
- C. If you are claiming earned unpaid wages, you must first attempt to obtain payment and be denied payment before filing a claim.
- D. This office will not intercede in a case pending in court or in which the claimant is represented by legal counsel.
- E. For more information on how the HREA applies to you, please call the Employment Standards Service Unit at 410-767-2357.

My rate of pay was/is: Daily Weekly Monthly Annually Commission

SECTION C: Complaint Details

Please check the reason(s) you are filing this complaint:

- I worked four (4) to six (6) consecutive hours, was not given a 15-minute break, and did not have a written agreement with the employer to waive the 15-minute break requirement.
- I worked more than six (6) consecutive hours and was not given a 30-minute break.
- I worked eight (8) or more consecutive hours and was not given a 30-minute break plus a 15-minute break for every additional four (4) consecutive hours I worked.
- I worked a working shift break and was not paid.

SECTION D: Earned Unpaid Wages and Dollar Amount Owed

- If you *were allowed to take* the 15-minute break during a period of more than four (4) consecutive hours but *were not paid* for that break, you must file a complaint with the U.S. Department of Labor (USDOL) for a violation of the federal Fair Labor Standards Act. You may contact USDOL by calling 1-866-4USWAGE (1-866-487-9243) or by visiting their website at www.dol.gov/whd/contact_us.htm. Remember that the 30-minute break required during a shift of more than six (6) hours is an *unpaid* break.
- If you were entitled to a 15-minute break and *were not allowed* to take it, and if your employer paid you for that time, then although your employer may be in violation of the Healthy Retail Employment Act (HREA), you are not entitled to any additional wages from your employer. (You should, however, complete the other sections of this form.)
- If you were entitled to any break and *were not allowed* to take it, and if your employer paid you as though you *had* taken the break, then your employer owes you for the time you worked but for which you were not paid. Under Maryland law, employers must pay non-exempt retail employees who – either by agreement or by requirement of the employer - work through a break to which they were entitled. **Please complete this section if you believe you worked without pay through a break to which you were entitled. Explain on a separate sheet why you believe the employer owes you wages. List the dates and hours for which you believe wages are due. For each date, please specify all hours worked, any breaks taken, and hours for which you were paid.**

I AUTHORIZE THE COMMISSIONER OF LABOR AND INDUSTRY OR THE COMMISSIONER'S DESIGNEE TO RECEIVE, ENDORSE MY NAME ON, AND DEPOSIT IN THE ACCOUNT OF THE COMMISSIONER OF LABOR AND INDUSTRY ANY CHECKS OR MONEY ORDERS MADE OUT TO ME AS PAYMENT ON THIS CLAIM. I UNDERSTAND THAT I WILL BE ISSUED A CHECK FROM THE STATE OF MARYLAND REPRESENTING THIS AMOUNT. THE AMOUNT OF THE CHECK COULD BE REDUCED BY ANY OUTSTANDING STATE DEBT I OWE, SUCH AS PAST DUE CHILD SUPPORT, STATE INCOME TAXES, ETC.

I understand that this form will be sent to the employer for his/her reply to the claim made above. I hereby certify that the above statements are true.

Signature: _____

Date: _____

**IMPORTANT INFORMATION REGARDING THE APPLICABILITY OF THE H.R.E.A. AND
INSTRUCTIONS FOR SUBMITTING A COMPLAINT**

Applicability of the Healthy Retail Employees Act:

A. Under the Healthy Retail Employees Act (HREA) certain retail establishments are required to give breaks to certain employees. The HREA applies to retail businesses with 50 or more retail employees in the State of Maryland. The breaks required by the HREA combined with the federal Fair Labor Standards Act (FLSA) are:

- during a shift of **four (4) or fewer hours**, *no break* is required;
- during a shift of **more than four (4) and up to six (6) consecutive hours**, one *paid* 15-minute break;
- during a shift of **more than six (6) consecutive hours**, one 30-minute *unpaid* break; and
- during a shift of **more than eight (8) consecutive hours**, one 30-minute *unpaid* break *plus* one (1) 15-minute *paid* break during each period of more than four (4) consecutive hours worked on either side of the 30-minute break.

B. Employees are *not* entitled to a shift break if:

1. They are covered by a collective bargaining agreement or other employment policy that provides for shift breaks of equal or greater duration to those required by this law.
2. They are exempt from the overtime pay requirements of the FLSA [This includes executive, administrative, and professional employees, as well as employees engaged in outside sales work.

Commissioned sales employees of retail or service establishments are exempt from overtime requirements of the FLSA if more than half of the employee's earnings come from commissions and the employee averages at least one and one-half times the minimum wage for each hour worked.].

3. They are an employee of the State or a county or municipality within the State.
4. They work in a corporation office or other office location; or
5. They work at a single location that has five (5) or fewer employees.

C. Under the HREA the employer can provide a "working shift break" (which in essence means that the employee does not get a break but is paid for that time) if **either**:

1. Both

(a) **Either:**

(i) the type of work prevents the employee from being relieved of work, **or**

(ii) **both:**

(A) the employee is permitted to consume a meal while working, **and**

(B) the employee is paid for this time, **and**

(b) The employer and the employee mutually agree in writing to the working shift break, **or**

2. Both

(a) the employee works more than 4 but not more than 6 hours in the shift, **and**

(b) the employee and the employer agree in writing that the employee is waiving their right to a break.