

## Baffled by Breaks? When Should Your Employees Punch Out for Rest Time?

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Employers know that they have to have their non-exempt employees punch in and out every work day so that there is an accurate record of the hours their employees worked. However, in addition to having their employees punch in and out at the start and end of the day, employers need to be sure that they are handling rest breaks and lunch breaks correctly. While generally employers do not have to offer their employees time for lunch or rest breaks, if they choose to do so, they must be sure that they comply with the Fair Labor Standards Act (the Act).

The Act does not require employers to pay their employees for breaks that are a half hour or more. As such, employers who give their employees rest breaks or meal breaks that are a half hour or more, can require that their employees punch in and out for these breaks. Note, however, employees should not do any work for the employer during this time.

With respect to short breaks (usually lasting 5-20 minutes), the Act requires employers to pay their employees for them. As such, employees should remain on the clock and not punch out for short breaks.

In addition to the Act, employers must comply with state law regarding rest breaks. New Jersey law does not require most employers to provide their employees with a rest or lunch break, with the exception of employees under the age of eighteen.

As such, whether or not an employer offers lunch or rest breaks is generally up to the employer. However, should you choose to offer such breaks, be sure to follow the provisions of the Act and state law. Additionally, employers should have policies in place regarding rest and meal breaks and the policies should be enforced in a non-discriminatory fashion.

**Takeaway:** Employers should be sure to create and enforce policies regarding meal and rest breaks to ensure they are complying with the Fair Labor Standards Act and state law.

### **Attorney**

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