



# EMPLOYEE BREAKS

## Guide to laws and regulations for restaurant owners

- There are no federal regulations concerning employee breaks.
- Wisconsin law requires employers to give employees under age 18 at least a 30-minute meal break if the employee works more than 6 hours. The break may be unpaid. You must document when the break began and ended. The minor may not waive the break.
- Wisconsin law recommends, but does not require, employers give breaks to employees over 18; breaks should be given close to the usual meal times or in the middle of the shift; and shifts of more than 6 consecutive hours without a break should be avoided.
- Under state law, any break of less than 30 minutes (for adults or minors) must be paid. Breaks 30 minutes or longer may be unpaid.

**Questions? Contact the WRA Hotline: 800-589-3211 or [hotline@wirerestaurant.org](mailto:hotline@wirerestaurant.org)**

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## Frequently Asked Questions

**Q.** How must I keep track of employee breaks? Can I just deduct 30 minutes from shifts over six hours when I do payroll?

**A.** If you have a POS, have your employees punch out for all breaks over 30 minutes; if you have your employees handwrite a time card, have them make note of their breaks over 30 minutes. Do not deduct time from employees' time cards without some form of documentation proving the break was taken. This documentation is especially important for minors who are required to have a break if their shifts are more than six hours.

**Q.** Sometimes my employees forget to punch out for their 30-minute meal break. How should I handle this?

**A.** Make a notation on the time card and have your employee and the employee's supervisor sign it. As long as this is just an occasional occurrence (i.e. it's not all your employees "forgetting" to punch out on Fridays, which just happens to be your busiest day of the week) there should not be a problem if your labor records are audited.

**Q.** Can I give my minor employees two 15-minute breaks instead of a 30-minute break?

**A.** No, the break must be a consecutive 30 minutes if the minor's shift is more than six hours.

**Q.** I give all my waitresses who work more than six hours a 30-minute meal break, but I require that they stay in the restaurant just in case we get busy. Is this okay?

**A.** For your waitresses over 18, this is okay but you must pay them for the break. In the eyes of the law, your waitresses are not really off-duty if they are required to stay on premises during their break and be ready to work. Even if they are never asked to cut their breaks short and take customers, you still must pay them.

However, if you have a waitress under 18 who is working a six-hour shift or longer, you may not require her to stay and be ready for customers while she eats because that meal period will not be seen as a legitimate break under the law.

**Q.** My employees are always sneaking out for cigarette breaks. Can I deduct these unauthorized breaks from their pay?

**A.** Sorry. You may want to deal with these employees in other disciplinary ways, but you cannot deduct any break under 30 minutes from an employee's pay. If your employee is out for more than half an hour on an unauthorized smoking break, you could deduct the time, but you'll probably want to deal with him or her in other ways as well.

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