

# FLASHPOINTS (ARCHIVED 2022)

## EMPLOYMENT & LABOR LAW FLASHPOINTS JUNE 2022

Thomas C. Garretson, [Robbins Schwartz](#), Chicago  
312-332-7760 | [E-Mail Thomas C. Garretson](#)

### Amendments to ODRISA Impose New Requirements on Illinois Employers

On May 13, 2022, Governor JB Pritzker signed into law [P.A. 102-828](#) (eff. Jan. 1, 2023), which amends multiple provisions of the One Day Rest in Seven Act (ODRISA), 820 ILCS 140/1, *et seq.* These amendments impose notable changes and new requirements on Illinois employers effective January 1, 2023.

#### *ODRISA Background*

ODRISA provides for statutory work parameters that Illinois employers may require of its employees, including weekly hours, days of rest, and daily break periods. ODRISA contains a broad definition of who is considered an “employer,” defined as a “person, partnership, joint stock company or corporation, which employs any person to work, labor or exercise skill in connection with the operation of any business, industry, vocation or occupation.” 820 ILCS 140/1. The Illinois Department of Labor (IDOL) is charged with enforcing ODRISA’s provisions and prosecuting any violations. 820 ILCS 140/6.

#### *Change to Required Frequency of 24-Hour Rest Period*

ODRISA currently provides that employers must allow every employee (subject to limited exceptions) to have at least 24 hours of rest in every *calendar week* in addition to the regular period of rest allowed at the close of each working day. 820 ILCS 140/2. This definition of how often the rest period is required to be provided permits employers to, for example, require employees to work for more than seven consecutive days and still comply with the mandate that a 24-hour rest period be provided to employees during every calendar week. P.A. 102-828 will prohibit an employer from operating in this manner by amending the statutory language to replace the term “calendar week” with “consecutive seven-day period.” As such, Illinois employers will be required to provide its employees with at least 24 hours of rest within every consecutive seven-day period without any consideration as to the calendar weeks in which those days fall. For purposes of potential civil damages and penalties, the amendment provides that each week that an employee is found not to have been allowed 24-hours of rest shall constitute a separate offense.

#### *Additional Meal Breaks*

ODRISA currently requires employees (subject to limited exceptions) working for 7½ consecutive hours or longer to be provided with at least 20 minutes for a meal break beginning no later than 5 hours after the start of the work period. 820 ILCS 140/3. The ODRISA amendment will now require employees working for longer than 7½ consecutive hours to be provided with an additional 20-minute meal period for every additional 4½ continuous hours worked. The amendment also makes it clear that these required meal periods do not include an employee’s “reasonable time spent using the restroom facilities.” For purposes of potential civil damages and penalties, the amendment provides that each day an employee is not allowed a required meal period shall constitute a separate offense.

#### *Notice Requirements*

The amendment to ODRISA will require employers to post and keep posted for its employees a notice, provided by IDOL, which summarizes the requirements of ODRISA and information pertaining to the filing of a complaint. An employer with employees who do not regularly report to a physical workplace and instead work remotely or travel for work must also provide this notice via e-mail or on the employer’s website that is regularly

used to communicate work-related information. Failure to provide the notice to employees shall be considered a violation of ODRISA and will subject an employer to civil penalties, as described below.

### *Enhanced Civil Penalties for Violations*

Employers found to be in violation of ODRISA's requirements currently may be fined for each offense in a sum of not less than \$25 nor more than \$100. 820 ILCS 140/7. However, the ODRISA amendment will provide enhanced civil damages and penalties for employers in violation of its requirements: (1) for employers with less than 25 employees, a penalty not to exceed \$250 per offense to be paid to IDOL, and damages up to \$250 per offense payable to the affected employee(s); or (2) for employers with 25 or more employees, a penalty not to exceed \$500 per offense to be paid to IDOL, and damages up to \$500 per offense payable to the affected employee(s). In addition, violation of the ODRISA notice requirements outlined above shall constitute a single offense and subject an employer to a penalty not to exceed \$250 payable to IDOL.

### *Key Takeaways*

The amendments to ODRISA are not effective until 2023, but Illinois employers should begin preparing for the new requirements and proactively undertake a review of current scheduling policies and practices to ensure future compliance, specifically with respect to scheduling days of rest and mid-work shift meal periods. Failure to do so could result in an inadvertent violation of ODRISA in 2023 and subject an employer to significant damages and penalties for repeated violations under the new statutory scheme.

*For more information about employment and labor law, see LABOR AND EMPLOYMENT ISSUES IN TRANSACTIONS, BUSINESS RESTRUCTURING, AND WORKFORCE REDUCTIONS (IICLE®, 2022). Online Library subscribers can view it for free by clicking [here](#). If you don't currently subscribe to the Online Library, visit [www.iicle.com/subscriptions](http://www.iicle.com/subscriptions).*

Copyright 2024 IICLE