

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS ENFORCEMENT 1988.03.21-2
35 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102ADDRESS REPLY TO:
P.O. BOX 603
San Francisco, CA 94102

IN REPLY REFER TO:

March 21, 1988

Honorable Lloyd G. Connelly
Member of the Assembly
P.O. Box 942849
State Capitol
Sacramento, CA 95816

Re: Randy Lilli; excessive overtime

Dear Assemblyman Connelly:

Your letter of February 29, 1988 to Ron Rinaldi has been referred to me for reply.

It is true that there are no laws or regulations restricting the amount of daily overtime an employer may require an employee to work, as long as the employee receives the required premium pay.

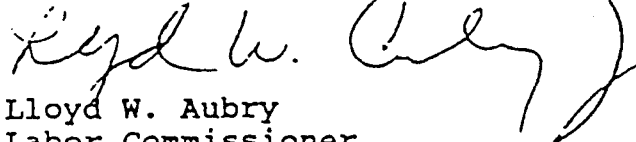
The only restriction on the hours an employee may be required to work is found in Labor Code section 550, which provides, "Every person employed in any occupation of labor is entitled to one day's rest therefrom in seven."

However, Labor Code Section 554 sets forth numerous exceptions to this provision, including the requirement that an employee work seven consecutive days when the nature of the employment reasonably requires that the employee do so. Section 554 does, however, require that in each calendar month the employee receive days of rest equivalent to one day's rest in seven (four days per month).

Finally, the requirement that an employee work excessive overtime may, in some instances, constitute a constructive discharge if the conditions of employment are such that the employee is unable to continue his employment and is forced to quit. If the resignation was due to the onerous conditions and the employee was being singled out, there might be a cause of action under the emerging wrongful discharge doctrines being created by the courts. Your constituent might want to consult legal counsel in order to determine whether he has a private cause of action against the employer.

I hope this information has been of assistance to you; if not,
please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lloyd W. Aubry". The signature is written in dark ink and is positioned to the right of the typed name.

Lloyd W. Aubry
Labor Commissioner

LWA/mdv