

Do we have to pay for smoking breaks?

Q. We give employees a one-hour unpaid lunch break. We don't provide additional paid breaks during the day. If an hourly employee also chooses to take short smoke breaks (less than 20 minutes) in the morning and afternoon, do we have to pay her for the breaks? — A.R., Louisiana

A. The laws relating to work breaks differ from state to state. Employers should consult with their legal counsel to verify their policies comply with laws in their jurisdiction. With that caveat in mind, I can tell you that in most states (including Louisiana), employees do not have a right to take smoking breaks. Therefore, if you wanted to cut back on this employee's breaks, you could require her to take her smoke breaks during her lunch break period.

Alternatively, you could continue giving the employee smoke breaks. However, the breaks would need to be paid unless they were 20 minutes or longer. The U.S. Department of Labor says that breaks of less than 20 minutes must be treated as working time.

Online resource: You can find a state-by-state chart on the minimum paid rest period requirements for private-sector employees at www.dol.gov/whd/state/rest.htm.