



**Bottom Line:** If an employer requires the activity, and it occurs on the employer's premises or under the employer's control, it may now be compensable under Illinois law.

**What You Should Do:** Even if the number of hours is small per employee; this kind of violation can bring a class action. Small violations are multiplied by the entire hourly work force.

If you have questions about any employment matters, call **Bret Rappaport**, who for more than three decades has worked with clients on employment law matters at 847/597-2151.

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## **INCREASED WAGE AND HOUR LIABILITY.**

**The Issue:** Earlier this spring, the Illinois Supreme Court issued a landmark decision to rewrite wage and hour law for Illinois employers. In *Johnson v. Amazon.com Services LLC*, the Court ruled that the Illinois Minimum Wage Law (IMWL) does not automatically incorporate the federal Portal-to-Portal Act's (PPA) definition of "hours worked."

Amazon warehouse employees sued, under both the PPA and the IMWL, for unpaid wages related to mandatory 15-minute pre-shift COVID-19 screenings. The PPA excludes compensation for "preliminary or postliminary activities" unless such activities are deemed "integral and indispensable" to employees' principal work activities. Since the employees' main job was moving packages, the lower court found the COVID tests did not meet this federal standard and were thus unpaid.

**The Decision:** In a 6-0 ruling, the Illinois Supreme Court sided with employees. Citing IDOL regulations, the Court held that under the IMWL, "hours worked" includes: "All the time an employee is required to be on duty, or on the employer's premises, or at other prescribed places of work, and any additional time the employee is required or permitted to work for the employer" as opposed to the narrower "principal activities" framework.

**What Does This Mean for Your Company?** Employers can no longer rely on the PPA's categorical exclusions to avoid a case-by-case analysis under the broader Illinois standards. Hourly employee could now be paid for tasks that were not compensated before such as:

- Donning or doffing required PPE, uniforms, or safety gear.
- Booting up/down and logging on/off computers.
- Troubleshooting before starting primary duties.
- Safety gear set up.
- Completing pre- or post-shift security inspections or screenings.
- Conducting safety or equipment inspections.
- Retrieving and returning required tools or equipment.