

Fact Sheet #27: New Businesses Under The Fair Labor Standards Act (FLSA)

This fact sheet is directed to new businesses covered by the provisions of the FLSA.

Coverage

Enterprise coverage refers to those businesses with a gross annual dollar volume of sales made or business done of \$500,000 or more.

Even if a business is not a covered enterprise, many employees will be covered by the FLSA on an individual basis. Individual coverage applies to all employees who are engaged in interstate commerce or the production of goods for such commerce. Covered employees include persons who produce, receive, ship, transport or load goods that are moving in interstate commerce, as well as those who prepare, handle or transmit information or documents in interstate commerce, such as credit card transactions. Other persons such as guards, janitors and maintenance employees who perform duties which are closely related and directly essential to such interstate activities are also covered by the FLSA.

Requirements

Employees who are covered by the FLSA are entitled to be paid at least the Federal [minimum wage](#) as well as time and one-half their regular rates of pay for all hours worked over 40 in a workweek. There are also [youth employment provisions](#) regulating the employment of anyone under the age of 18 in covered work, as well as recordkeeping requirements.

Youth Minimum Wage: The 1996 Amendments to the FLSA allow employers to pay a youth minimum wage of not less than \$4.25 an hour to employees who are under 20 years of age during the first 90 consecutive calendar days after initial employment by their employer. The law contains certain protections for employees that prohibit employers from displacing any employee in order to hire someone at the youth minimum wage.

Covered employees must be paid for [all hours worked](#) in a workweek. In general, compensable hours worked include all time an employee is on duty or at a prescribed place of work and any time an employee is suffered or permitted to work. This would generally include work performed at home, travel time, waiting time, training and probationary periods.

There may be employees of a covered business who are exempt from the minimum wage and/or overtime provisions of the FLSA. Bona fide [executive, administrative, professional \(including certain computer professionals\), and outside sales employees](#) are exempt from both the [minimum wage](#) and [overtime](#) provisions, if all tests for the exemption are met. Additional employees may be excluded from [minimum wage](#) or [overtime pay](#) provisions as defined by other specific exemptions.

Typical Problems

There are common problems and misconceptions which Wage and Hour investigations frequently disclose. These include:

- The misapplication of the executive or administrative exemption to non-exempt "salaried" persons such as clerical workers, working foremen, dispatchers, and inside salespersons.
- Employment of underage minors in prohibited duties and/or beyond permitted hours.
- Failure to pay [overtime](#) to non-exempt salaried employees.
- Failure to pay employees for all hours suffered or permitted to work, including time spent taking inventory, cleaning up, completing paperwork, etc., beyond the normal work schedule.
- Failure to maintain records on non-exempt salaried or piece rate employees.
- Granting compensatory time off in lieu of overtime pay.
- Considering certain employees to be "contract labor" or independent contractors and thus treating them as not covered by the FLSA's provisions.
- Illegal deductions or kickbacks for shortages, uniforms, errors, bad checks, etc., which reduce an employee's pay below the applicable [minimum wage](#) or required [overtime pay](#).
- Failure to pay [minimum wage](#) and [overtime](#) to part time employees.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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