

Fact Sheet #76: Car Wash and Auto Detailing Establishments Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the application of the [FLSA](#) to employees of car wash and auto detailing establishments.

Characteristics

Car wash and auto detailing establishments are primarily engaged in providing wash and detail services to the general public. Some establishments also sell car care products, gas, lube, snacks, and beverages.

Coverage

Car wash employees are typically covered by the FLSA. Specifically, all employees of a car wash business that has at least two employees handling, selling, or otherwise working on goods or materials (such as machines, equipment, tools, supplies and cleaners that were transported or produced out-of-state) and whose annual sales or business is \$500,000 or more, whether from a single establishment or from multiple establishments, are covered by the FLSA's minimum wage and overtime requirements unless exempted. Even if the car wash business is not a covered enterprise, an employee may be individually covered if he or she is engaged in interstate commerce or in the production of goods for interstate commerce, which may be established if the employee regularly communicates (such as by phone) with persons out-of-state, prepares, handles, or in any manner works on materials of any type moving in interstate commerce, handles records of interstate transactions, or handles credit card transactions that involve the interstate banking and finance system.

Requirements

- **Minimum Wage**: Covered non-exempt employees must receive at least the federal minimum wage of \$7.25 per hour (state laws may require a higher minimum wage). Wages are due on the regular payday for the pay period covered. Deductions from wages for items such as required uniforms or shortages are illegal if they reduce the employee's wages below the minimum wage or cut into any overtime pay.
- **Tips**: Tips may be included as part of wages for employees who customarily and regularly receive more than \$30 a month in tips. For tips to be used as a credit against the minimum wage due, the employer must inform its tipped employees in advance that it will be paying a reduced tipped wage, advise them of the tip credit amount claimed, and pay them at least \$2.13 an hour in direct wages. The employer must also ensure that the amount of tips actually received plus the direct wages paid are enough to meet its minimum wage obligation (or otherwise pay the difference in wages). Tipped employees must retain all of their tips, except to the extent that they participate in a valid tip pooling or sharing arrangement. (Certain states have different rules on tips.)
- **Overtime**: Covered non-exempt employees must receive overtime pay for all hours worked over 40 in a workweek at a rate not less than time and one-half their regular rate of pay (overtime must be calculated on a workweek basis regardless of the payroll frequency). The regular rate of pay includes most remuneration for employment (including wages, tip credit claimed, nondiscretionary bonuses, commissions, etc.) divided by the total number of hours worked in the workweek.

- **Records:** The FLSA requires covered employers to keep accurate records of wages, hours, and other items, as specified in the recordkeeping requirements under 29 C.F.R. Part 516. Wage records must include each non-exempt employee's regular rate of pay, hours worked each day and workweek, total straight-time and any overtime earnings, all deductions from wages, and net wages actually paid.
- **Rest and Meal Periods:** The FLSA does not require rest or meal breaks, although state laws may. In general, hours worked include all time an employee must be on duty or at the place of work, including waiting time and periods of inactivity controlled by the employer but not bona fide meal periods or off duty time. All hours worked must be paid. Employers allowing or requiring short breaks or rest periods, usually 20 minutes or less, must count the time as hours worked. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time so long as the employee is completely relieved from duty.
- **Child Labor and Minimum Wage:** In nonagricultural employment, the FLSA forbids the employment of minors under age 14, restricts the hours of work and permitted occupations for 14- and 15-year-olds, and forbids the employment of minors under age 18 in hazardous occupations. Employers may pay a youth minimum wage of not less than \$4.25 an hour to employees under 20 years old during the first 90 consecutive calendar days after initial employment (unless state law provides for a higher minimum wage).

Typical Problems

1. Failure to record and pay all hours actually worked, such as time spent working before or after the shift and waiting during down time or rain delays.
2. Failure to maintain complete and accurate time and payroll records.
3. Failure to pay at least the minimum wage and overtime for non-exempt employees, such as those paid hourly, piece rate, day rate, or salary. For example, employees being paid a day rate in cash that is insufficient to cover the minimum wage requirement for all hours worked and overtime for all hours worked over 40 in the workweek.
4. Illegal deductions for shortages, uniforms, supplies, loss of merchandise, and customer walkouts, etc., which reduce an employee's pay below the minimum wage or reduce required overtime pay.
5. Compensating solely by tips; the tips received are not sufficient to make up the difference between the employer's direct wage payments and the minimum wage; not allowing employees to retain all tips received; or implementing unlawful pooling or sharing of tips.
6. Failure to calculate and pay overtime hours on a workweek basis even if employees are paid on a bi-weekly or semi-monthly basis.
7. Classifying certain employees as "contract laborers" or "independent contractors" and thus not treating them as "employees" covered by the FLSA's provisions.

Where to Obtain Additional Information

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