The ripple effects of $15/hr minimum wage laws…

Wage and hour lawsuits at records highs.

Since 2000, the number of wage and hour lawsuits filed under the Fair Labor Standards Act have more than quadrupled. One of the reasons for this is that the movement for a standard $15/hr minimum wage has created a belief amongst those in areas not affected, that they are missing out on the wage benefits others are receiving.

As discussed in September’s Lumber Lawyerly, many employees are putting in far more than 40 hours a week but are exempt from overtime laws as salaried workers. There exists a hazy line between being exempt from overtime and being eligible for it. The $15/hr movement has simply brought wage issues front and center, and as a result, has educated employees on other facets of employment law.

When does your day begin and end? Love it or hate it, technology has given us the ability to reply to emails, work on projects, and follow up with customers at all hours of the day. Few employers pay for this time, raising the question of who pays for services performed outside the office.

How can you protect your business from wage and hour suits?

• Pay particular attention to which employees you classify as overtime exempt. Simply changing the title of an employee but not their duties should be a clear red flag indicator.

• Update your policies to reflect new technologies, focusing on how you compensate for time put in outside of work. Example: If you promote using smartphones to respond to emails at 9 p.m., you need to be paying for those hours if the employee is non-exempt.

• Make sure your employees know what will and will not be compensated for before an issue arises (preferably before being hired in your job postings and interview process).

• Review time clocking procedures for hourly employees.

• Always pay non-exempt employees overtime for their work.

In 2016, the salary threshold for overtime exempt employees is set to more than double to over $50,000/year. What this means is that many building material suppliers may choose to switch some salaried employees back to hourly wages. If their duties are not changing and/or clear rules have not been set, employers may be opening themselves up to potential liability.

The moral of the story is not to operate your business in fear of a lawsuit. Instead, recognize that this issue is much more at the forefront of your employees’ consciousness and should therefore be a priority of yours.

Compliance Spotlight…

Get your railings in order or face a hefty fine.

During WBMA Comprehensive Compliance Audits I have found it to be a common practice for dealers to have a loft, shelf, or upper floor that has become a graveyard for storing both...
inventory and equipment.

Since this creates the potential that an employee would need to access this place, any of these areas above 4 feet require a guardrail to protect from falling. (29 C.F.R. 1910.23)

Believe it or not, if you have a skylight on your roof and a worker could access that area as well, you need a railing around each skylight (unless you qualify for limited exemptions; see 1910.23(a)(4))

In addition to needing a guardrail, each of these areas is required to have a sign clearly listing the floor loads. CFR 1910.22(d)(1).

Current fines for violating each of these rules could reach $7,000. Get compliant now before fines jump in 2016 to account for inflation.

For inquiries on these rules and/or to schedule a WBMA Comprehensive Compliance Audit please call us at 360-943-3054 or email tom@wbma.org.

About the Author/Disclaimer:
Tom Rider is Manager of Member Services for Western Building Material Association. He is committed to being a valued resource to its members particularly on regulatory compliance issues affecting building material suppliers. Unless stated otherwise, this regulatory newsletter is written by him. He is a lawyer, but respectfully he is not your lawyer (unless you have been in his office and signed a contract). This communication is not intended as legal advice, and no attorney client relationship results merely by reading it. Please consult your own attorney for legal advice. If you are a WBMA member and would like to contact Tom with questions and/or comments: tom@wbma.org

Quote of the Month:
“Indeed, the real question is not, “Why greatness?” but “What work makes you feel compelled to try to create greatness?” If you have to ask the question, “Why should we try to make it great? Isn’t success enough?” then you’re probably engaged in the wrong line of work.” James C. Collins, Good to Great

Upcoming Events:

Kicking Off 2016!
As the hub for industry training and education, WBMA is excited to present our new 3-Part leadership series!
Kicking off at the end of January is Part I: Customer Service and Sales Management led by Bill Sharp. Stay Tuned!

Visit us on the web at: www.wbma.org