The Overtime Rule:

*Hope for the best, but get prepared now.*

On Thursday, the U.S. House of Representatives passed H.R. 6094, aimed at delaying the implementation of the new overtime rules by at least 6 months. Identical legislation is now working its way through the Senate. In addition to these efforts, 21 states, over 50 business groups, and the U.S. Chamber of Commerce have all filed lawsuits looking to overturn, or at least slow the implementation of the new rules. As is, on December 1st the salary threshold used to determine which employees qualify for overtime pay will more than double from $23,660/yr to $47,476/yr.

The lawsuits filed last week along with the actions of congress offer businesses a glimmer of hope that a better option may be within reach. Given the short window before the rules are to go into effect, and the White House’s threat to veto any new legislation, employers should still be prepared to move forward as if these 11th hour efforts are going to be unsuccessful.

Here are a few things you can do to be prepared come Dec. 1, 2016:

1. Do an internal review to determine how many salaried workers you have that will fall below the new salary basis test.
2. To the best of your ability, calculate the number of hours these employees put in (on average) in excess of 40 hours.
   a. Note: Early morning team meetings, late night emails, bringing blueprints home to do a takeoff, etc. may all be compensable tasks for an hourly worker.

3. Would changing these employees to hourly status (as compared to a salary of $47,476+) have a significant impact on what they make?
4. Take the #’s you calculated and do a cost-benefit analysis to determine if it is best for you to increase your employee’s salary or to move them to hourly (which will include paying them overtime).
5. If you determine moving your employee to “hourly” is the best route to take, calculate what you determine to be a competitive hourly rate taking potential overtime into account.
6. Re-review with all employees what duties performed “off the clock” will or will not be compensated for.


**Compliance Spotlight…**

**Gloves**

*Are they required, and who pays for them?*

There is a common debate amongst lumber and building material suppliers regarding the use of gloves, more specifically, whose duty is it to pay for them. Employer, or employee? Here is a brief guide.

**Do I have to supply gloves at no-cost to my employees?**

It Depends…

*continued on page 2*
YES → An employer is required to supply (non-specialty) gloves at no-cost if required to protect from things such as “dermatitis, severe cuts, or abrasions.”

NO → If only used by your employee to keep their hands clean or warm in cold with no safety or health consideration.

Consensus: While the debate may rage on long after this article is written, a thorough review of both the rules and published interpretations make it clear that employers need to supply gloves to yard and warehouse workers. Why? It is reasonable to conclude (as an OSHA inspector will) that in our industry, gloves are a necessary tool to protect your employees’ hands from injury.

Do I have to supply gloves at no-cost whenever my employee requests them?

NO, if the employee has lost, intentionally damaged and/or failed to properly care for the gloves.

YES, if the employee is making a reasonable request for new personal protective equipment after normal wear and tear has rendered them no longer useful.

Do I need to supply rain gear to my employees?

NO, when used by your employee to stay clean and/or protect them from the weather the employer is not required to provide rain gear at no-cost.

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:
“A business absolutely devoted to service will have only one worry about profits. They will be embarrassingly large.” Henry Ford

Upcoming Events:

Educational Opportunities:

Oct. 4th – 5th
• Estimating Workshop (Olympia, WA)

October 6th
• Part 2 of WBMA’s Leadership Series: Financials for Non-Financial Managers (Olympia, WA)

Dates to Remember:

November 8-10
• WBMA’s 114th Annual Convention, Red Lion Jantzen Beach (Portland, OR)

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