

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington, D. C.

WAGE AND HOUR DIVISION STATES ENFORCEMENT POLICY
CONCERNING MAXIMUM HOURS OF EMPLOYEES OF PRIVATE
CARRIERS BY MOTOR VEHICLES

Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, when asked to state the Division's position on the status of employees of private carriers by motor vehicles under the Fair Labor Standards Act, in view of the report on May 1, 1940, of the Interstate Commerce Commission as to its proposed regulation of the hours of service of drivers of private carriers made the following statement:

"In paragraph 5 of Interpretative Bulletin No. 9, published by the Wage and Hour Division in May, 1939, and revised the following month, the office of the General Counsel stated its opinion that employees of private carriers by motor vehicle were not within the exemption provided in Section 13(b)(1) of the Fair Labor Standards Act, unless and until the Interstate Commerce Commission made a finding of need to establish reasonable requirements to promote safety of operation of such carriers.

"The Interstate Commerce Commission has just published its report containing a finding that there is need for Federal regulation of private carriers of property to promote safety of operation of motor vehicles used by such carriers in transportation of property in interstate or foreign commerce. On the basis of this report, the Commission has issued an order prescribing hours of service regulations solely for drivers employed by such private carriers, to be effective on and after August 1, 1940, and accordingly, the exemption in Section 13(b)(1) of the Fair Labor Standards Act will become applicable; but it has been the position of the Division that the Interstate Commerce Commission order has no retroactive application.

"Because of the backlog of uninvestigated complaints with which the Division is faced and the probability that before any authoritative decision could be had in the courts, the Interstate Commerce Commission order would become effective and any injunction suit would be rendered moot, the Division will not take any enforcement action with respect to past violations of the overtime provisions affecting such employees. Nor will the Division take any action to collect restitution for such employees. It will be necessary to leave the questions as to the retroactive effect of the Interstate Commerce Commission order and the collection of restitution for such period to determination in employee suits under Section 16(b) of the Fair Labor Standards Act.

"It must be clearly understood, however, that this statement of the enforcement policy of the Wage and Hour Division with respect to such employees is not to be construed so as to impair or otherwise prejudice the right of any such employee under Section 16(b) of the Fair Labor Standards Act to recover unpaid overtime compensation computed at the rate proscribed in Section 7 of the Act for the period prior to the time the Interstate Commerce Commission regulations become effective."

##