

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

SUPREME COURT UPHOLDS WAGE AND HOUR DIVISION POSITION
ON COMMON AND CONTRACT TRUCKING

The decision of the United States Supreme Court today in the case of U. S. Interstate Commerce Commission vs. the American Trucking Association, Inc., et al upheld the position of the Wage and Hour Division on interstate bus operations and common and contract trucking, said Colonel Philip B. Fleming, Administrator.

The decision written by Justice Stanley Reed means that more than 200,000 employees of bus and trucking companies remain under the hours provisions of the Fair Labor Standards Act and are therefore entitled to at least time and a half their regular rate for overtime.

Colonel Fleming pointed out that this is in accordance with Interpretative Bulletin No. 9 of the Wage and Hour Division, which was cited by the court. "Such interpretations are entitled to great weight," the court said.

The Wage and Hour Division intervened in the case in support of the position of the Interstate Commerce Commission. The Commission had ruled that its jurisdiction over hours of service of employees of common and contract carrier trucking concerns is limited to those employees whose activities affect safety of operation. A special court of three United States Judges in the District of Columbia invalidated the Commission's ruling, and held that the Commission's jurisdiction extended to all employees of such concerns. The Supreme Court by a 5 to 4 vote reversed this today.

The Fair Labor Standards Act, or Federal Wage and Hour Law, exempts from hour provisions "any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935." The Commission had

regulated hours of drivers whose work affected the safety of operations to an absolute maximum of 60 hours a week, and these employees only were considered by the Wage and Hour Division to be exempt from the hours provisions of the Fair Labor Standards Act.

The Court in upholding the broad interpretation taken by the Division in Bulletin No. 9 said: "The Commission and the Wage and Hour Division, as we have said, have both interpreted section 204 (a) as relating solely to safety of operation. In any case such interpretations are entitled to great weight. This is peculiarly true here where the interpretations involved 'contemporaneous construction of a statute by the men charged with the responsibility of setting its machinery in motion, of making the parts work efficiently and smoothly while they are yet untried and new.'"

As it has been estimated that more than two hundred thousand employees of common and contract carriers are not engaged in activities affecting safety of operations of trucks and busses owned by such carriers, the decision of the Supreme Court has the effect of making the 42 hour (40 hours after October 24) workweek under the Fair Labor Standards Act applicable to such employees. They may be employed longer than the 42 or 40 hour workweek but must be paid at least time and a half their regular rate after the hour limitation of the Wage and Hour Law has been passed.

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