

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

FRESH FRUIT AND VEGETABLE CANNERS WARNED  
AGAINST LETTING CONTRACTS TO WAGE-HOUR VIOLATORS

As the nationwide drive toward compliance with the Fair Labor Standards Act develops in the canning industry, Wage-Hour inspectors will pay particular attention to canners who buy fresh produce and contract with other employers to carry out all or part of the actual canning operations, General Philip B. Fleming, Administrator of the Wage and Hour Division of the U. S. Department of Labor said today.

"Such contracts do not relieve the canner of his responsibilities under the Wage-Hour Law," General Fleming added. "Unless the contractor pays his employees at least the 30-cent minimum wage and is in compliance with other provisions of the Act, the canner who engaged to have this work done for him will be subject to the 'Hot Goods' provision of Section 15(a)(1)."

This section of the Wage-Hour Law makes it unlawful to ship, deliver or sell in interstate commerce goods produced in violation of the Act. Any person found with such "hot goods" in his possession may be restrained by injunction from shipping these goods in interstate commerce.

"Canners who let work out on contract should make sure that the contractor is in full compliance with the wage and hour and child labor provisions of the law," General Fleming warned. "Our inspectors are careful to explain the Fair Labor Standards Act to employers, but their primary job is to search for violations in covered plants. Canners will protect their own interests best by seeing to it that the contractors they engage meet Wage-Hour standards with respect to their own employees."

Commenting on the progress of the canning drive to date, the Wage-Hour Administrator added, "In general we are finding employers very cooperative. Trade associations and trade publications have been helpful too, in telling employers what is required of them under the law."

General Fleming pointed out that canners and packers of fresh fruits and vegetables enjoy two exemptions from the overtime provisions of the Wage-Hour Law. Each is for a period of 14 weeks, thus allowing plenty of opportunity to handle the intermittent peak loads which are common in plants that process perishable commodities.

The first exemption permits employees to work as many hours as necessary without overtime payment. The second exemption allows a 12-hour day and a 56-hour week; hours worked beyond these limits must be paid for at not less than time and one-half the regular hourly rate. Neither of these exemptions permits an employer to pay an hourly rate of less than 30 cents.

"These industry drives are both educational and punitive," General Fleming said. "Today few employers can plead ignorance of the law, and while we do not intend to crack down for minor mistakes, the Wage and Hour Division has no alternative but to refer for criminal action cases where deliberate and wilful violations are found."

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