

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
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CERTAIN MOTOR CARRIER EMPLOYEES EXEMPT FROM OVERTIME

L. Metcalfe Walling, Administrator, Wage and Hour Division, United States Department of Labor, today announced the release of a revised edition of the Division's Interpretative Bulletin No. 9 dealing with the application of the wage-hour law's overtime provisions to employees of motor carriers. The revision has been occasioned by the Supreme Court's decisions in Southland Gasoline Co. v. Bayley and Walling v. Jacksonville Paper Co. and the amendment of May 16, 1942 to the Motor Carrier Act, 1935.

Drivers, drivers' helpers, mechanics and loaders employed by common, contract or private carriers engaged in transportation in interstate commerce are now considered by the Division as exempt from the overtime provisions of the Fair Labor Standards Act under section 13(b)(1). The Division's position in extending the overtime exemption to these four types of employees of private carriers, even though the Interstate Commerce Commission has not yet found a need to regulate their employment, was taken because of the decision of the United States Supreme Court in the Southland Gasoline Co. case mentioned above.

The revised bulletin also indicates that, in view of the amendment of May 16, 1942 to the Motor Carrier Act, drivers, drivers' helpers, mechanics and loaders employed by motor carriers performing pick-up and delivery service for a railroad, express company or water carrier are to be regarded as exempt from the overtime provisions of the Fair Labor Standards Act since May 16, 1942.

Another important change in the present revision sets forth the enforcement policy the Division will follow with respect to employees employed in wholesale distribution within a State of goods received from without the State where such distribution is in interstate commerce. The Division deems it necessary, for enforcement purposes, to consider employees of wholesale establishments who engage in such interstate commerce under the Fair Labor Standards Act and whose duties affect safety of operation of motor vehicles as exempt from the overtime provision of the Act. Mr. Walling emphasized, however, that this position is, of course, taken without prejudice to the rights of the employees to bring an action under section 16(b) of the Act.

The only other change in the revised bulletin is with respect to employees who perform both exempt and nonexempt work in the same workweek. The Division now takes the position that any truck driver, drivers' helper, mechanic or loader employed by a common, contract or private carrier who spends the greater part of his time during any workweek on nonexempt activities (such as producing, processing or manufacturing goods, warehouse or clerical work, or other type of work which does not affect the safety of operation of a motor vehicle) will not be exempt from the overtime provisions of the Act.

The revised bulletin is unchanged in other respects, but it should be pointed out that the minimum wage requirements of the law apply at all times to all four types of employees exempted from the Act's overtime provisions.