

U. S. DEPARTMENT OF LABOR
Wage and Hour and Public Contracts Divisions
165 West 46th Street
New York 19, N. Y.

Circulation supervisors of newspapers generally cannot qualify for exemption from the overtime provisions of the Fair Labor Standards Act on the basis of being engaged in a local retailing capacity, L. Metcalfe Walling, Administrator of the Wage and Hour and Public Contracts Divisions, U. S. Department of Labor, announced today. To qualify for this exemption under the Act, employees must be employed in a bona fide local retailing capacity.

"The work of supervising carriers and distributing newspapers to carriers, newsboys, and dealers is neither the making of retail sales nor the performance of work 'immediately incidental thereto' as required by the regulations," Mr. Walling said.

Such work, in the opinion of the Divisions, is more closely related to wholesale type distribution or bulk delivery of the newspapers than to the making of specific retail sales, the Administrator explained, pointing out that work of this type differs in this respect from that of circulation collectors whose sole duties are to visit subscribers on specifically assigned routes to make weekly customer collections. Such circulation collectors, if they meet the other requirements of the regulations, qualify for the exemption, he said.

Mr. Walling stated that the position announced today modifies opinions previously given to some newspapers regarding the application of the local retailing capacity exemption to certain types of circulation supervisors, and that for this reason no enforcement action based on this

modification will be taken by the Divisions for the period prior to August 1, 1946.

In the light of the Divisions' position, as restated above, the Administrator examined the work of certain circulation supervisors and found that among those who do not qualify for the exemption are the following employees:

(1) City Branch Managers or Country Territorial and Branch Managers, engaged in the distribution of newspapers within a specified territory, who distribute and supervise the carriers within their territory and who may, as part of their duties, be responsible for the value of the newspapers delivered to them, the making of collections from the carriers, checking starts, stops, complaints, insurance and magazine orders; who deliver newspapers to and supervise carrier boys; and who supervise the sale of the papers by dealers and make collections from them.

(2) Street Sales Supervisors who supervise the distribution of papers to city street sales boys, keep records of such distribution and are responsible for collecting the payment for such papers from them.

(3) City Dealer-Drivers who deliver newspapers to newsdealers within specified territories and are responsible for collecting from such dealers.

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