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

QUESTIONS ON FAIR LABOR STANLARDS ACT OF 1938 ARE ANSWERED

Questions as to the specific provisions of the Fair Labor Standards Act of 1938, which went into effect Monday, are being answered as rapidly as possible after being received in Washington, according to Administrator Elmer F. Andrews of the Wage and Hour Division, U. S.Department of Labor.

Because many of these individual problems have a general application, the Wage and Hour Division revealed its answers to some of the most important with the idea that other persons or groups affected by a similar situation might find therein the answers to their own questions.

A leather manufacturer in New York State asks: "Are there any provisions exempting such non-productive labor as maintenance-men, watchmen, firemen and engineers working on an hourly basis and supervisory employees or executive officers on straight salary? Is it possible to work such men continually exceeding the specified workweek provided they are paid time and one-half for overtime?"

This was answered as follows: "The law provides for an exemption of employees employed in a bona fide executive, administrative or professional capacity, 'as such terms are defined and delimited by regulations of the Administrator'. The law also provides that no employer who is engaged in commerce or in the production of goods for commerce, shall employ any office employees for a workweek longer than 44 hours, unless he pays time and one-half for overtime. It will, therefore, be proper to work your employees longer than the specified 44 hours provided they are paid time and one-half for overtime."

An Attorney in Nebraska asks: "Are large employers, who are able to and do pay large salaries, affected by the 44 hour week? Could not many of the employees in this class stand a substantial reduction in hours which might induce a corresponding increase in the number of employees and thus take up some of the slack in employment?"

This is answered as follows: "The statute does not forbid employment in excess of 44 hours a week, but it does require that the excess hours be compensated at a rate of time and one-half the regular rate at which the employee is employed. The benefits of this provision apply not only to the poorly-paid workers receiving the bare minimum of 25¢ an hour, but also to employees in the upper brackets. Congress, although not flatly forbidding employment in excess of 44 hours, evidently hoped that this provision of the law would tend to discourage such excessive employment."

A Connecticut firm which takes physical inventory and audits its books in December and June each year finds that this procedure involves a considerable amount of overtime work on the part of its employees, both in the office and in the warehouses, at these periods which do not exceed 14 weeks in the aggregate in the calendar year.

According to the Wage and Hour Division this is not work "of a seasonal nature" as contemplated by the Law, and the employer would have to pay time and one-half for overtime.

"May we plan to begin computing hours for our workweek on Friday morning when the 8 o'clock shift comes to work", asks an Ohio employer.

Interpretative Bulletin No. 4 of the Wage and Hour Division says: "the workweek is 7 consecutive workdays but may begin at any time of any day save that no change can be made for the purpose of evading the Act."

"An employee working within the tme limits of the Act and being paid above the minimum happens to be away from the office for business or personal reasons, and loses some time, for which he is paid in full. Can he work say 46 to 48 hours for a few weeks following, the extra time being without pay, so as to make up the time he lost and for which he was paid in full?"

The answer to this question, asked by a New York manufacturer, is found in Interpretative Bulletin No. 4 which states that: "time lost for any reason (such as holidays, sickness, vacations) during one workweek cannot be made up the next or any following workweek unless the employee receives time and one-half overtime compensation for hours in excess of 44 in the succeeding week."

An association of manufacturers inquires about hours regulations as applied to watchmen and office employees in small plants who often may have to assist in stockrooms, or in shipping and other jobs.

Interpretative Bulletin No. 1 indicates that watchmen and clerical help are included within the coverage of the Act.

A printing concern in upper New York State asks whether it is compulsory or optional for firms doing an interstate business to indicate on their invoices that the goods manufactured by them were made in compliance with the Wage and Hour Law.

The Fair Labor Standards Act has no requirement for the issuance of certificates of compliance and the Administrator has no authority to prescribe such certificates by rule or by regulation. Therefore, such certificates, if issued, would be a matter of private contract between the buyer and the seller.

A public official who makes inquiry is informed that the Law contains no provisions to permit of special regulations in case of any Emergency, such as that resulting from a hurricane or other similar disaster.

Certain manufacturers who find it necessary to use hand-embroidery on garments made in their plants state that this embroidery is done by hand usually at home and that their main competition comes from Puerto Rico. These manufacturers on the mainland intend to comply in full with the wage and hour provisions of the Act, and were informed that the Administrator had no power to grant any extension of time in the application of the Act to Puerto Rico.