

Don't Overlook Overtime

What employers in the automotive service industry should know about requirements under the Fair Labor Standards Act

As an employer in the automotive service industry, few expenses affect your weekly bottom line more directly than your staffing budget. You draft your schedule with care, assign the hours you expect your staff to work, and forecast what that will mean to your weekly payroll. Of all the factors that can affect your total expenditures, minimum wage and overtime are among those that can make the biggest difference in the shortest amount of time. Understanding and complying with federal labor regulations regarding minimum wage and overtime under the Fair Labor Standards Act (FLSA) is a critical piece of your payroll puzzle.

The U.S. Department of Labor's Wage and Hour Division (WHD) has found minimum wage and overtime violations of the FLSA among auto repair and maintenance employers across the nation. Many of these violations result from employers failing to pay employees proper overtime when they work over 40 hours in a workweek.

Determining which employees are due overtime, when they are due overtime, and how much overtime they are due requires a clear understanding of the law. Unless a specific exemption applies, employees must be paid at least the federal minimum wage of \$7.25 per hour and ***overtime at time-and-one-half their regular rate of pay for any hours worked in excess of 40 hours in a workweek***. Employees who do not qualify for an exemption and are therefore entitled to overtime pay are commonly referred to as “non-exempt” employees, while those who do qualify for an exemption from overtime pay are referred to as “exempt” employees.

WHD prioritizes opportunities to reach the regulated community and expand our compliance assistance and educational efforts. In 2021 alone, the division conducted almost 4,800 outreach events to help ensure that workers and employers alike have the information they need to understand the law's requirements.

Enforcement is also key to obtaining compliance with federal labor laws, to protecting the wages of workers, and to leveling the playing field for employers who play by the rules. In fiscal year 2021, WHD concluded nearly 550 investigations in the automotive services industry and recovered more than \$4.3 million in back wages for more than 3,500 auto care workers. These numbers represent a 33% increase in back wages due compared to the prior year, and a 31% increase in the number of employees paid back wages. As the Wage and Hour Division continues its investigations in this industry, these numbers will continue to rise if more automotive repair employers don't take preventive measures toward compliance. The next business could be yours.

Investigations in the automotive services industry have disclosed the following types of violations:

- * Piece-rate employees paid less than the minimum wage for all the hours they have worked or not being paid overtime when they work more than 40 hours in a workweek
- * Deductions made for meal breaks when the employee works through those breaks
- * Work performed off the clock, typically before or after scheduled shifts
- * Workers paid only straight time for flag hours when they work more than 40 hours per week
- * Straight time pay for all hours over 40 in a workweek
- * Overtime pay after 80 hours biweekly instead of after 40 hours in a workweek
- * Bonuses not included in the calculation when employers determine workers' overtime rates
- * Paying non-exempt workers flat salaries and failing to pay them overtime when they work more than 40 hours in a workweek

Violations harm both workers and businesses complying with the law.

Your state may have additional requirements or different statutes or regulations. To find your state labor department's contact information, visit http://www.dol.gov/whd/contacts/state_of.htm.

For additional information on the requirements of the FLSA, visit the U.S. Department of Labor Wage and Hour Division's website at www.dol.gov/agencies/whd, or call 866-4US-WAGE (866-487-9243) to speak confidentially with a trained professional. WHD can communicate with callers in nearly 200 languages and enforces the law regardless of immigration status.