For many retailers, the holiday shopping season is a “make or break” period which can define their bottom lines for the entire year. Temporary and part-time employment spikes as retailers and other businesses increase staffing to accommodate their seasonal increase in business. Workers not familiar with this sort of employment, and employers unaccustomed to hiring part-time and/or seasonal employees, may not be fully aware of the regulations surrounding such employment. We offer the following information to help guide both employers and employees through this busy season in an informed manner.

The mission of the DOL’s Wage & Hour Division (WHD) is to promote and to achieve compliance with labor standards to protect and enhance the welfare of the nation’s workforce. To that end, WHD is responsible for enforcing some of the nation’s most comprehensive federal labor laws on topics including the minimum wage, overtime pay, recordkeeping, and child labor.

Collectively, the laws enforced by Wage and Hour cover most private, state and local government employment throughout the United States and its territories, and protect over 143 million workers in more than 9.8 million establishments nationwide.

One of the laws enforced by Wage and Hour is the Fair Labor Standards Act (FLSA), which requires employers to pay covered non-exempt employees at least the federal minimum wage for all hours worked, and overtime pay for all hours worked over 40 in a work week. For general information about the FLSA, including its application to tipped employees, please see WHD’s web page at:

http://www.dol.gov/whd/flsa/index.htm, and

Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA) at

http://www.dol.gov/whd/regs/compliance/whdfs15.htm

FREQUENTLY ASKED QUESTIONS REGARDING PART-TIME OR SEASONAL EMPLOYMENT:

How many hours is full-time employment?

How many hours is part-time employment?

The FLSA does not define full-time employment or part-time employment. This is a matter generally to be determined by the employer. Whether an employee is considered full-time or part-time does not change the application of the FLSA.

How many hours per day or per week can an employee work?

The FLSA does not limit the number of hours per day or per week that employees aged 16 years and older can be required to work. However, as noted above, overtime compensation requirements can apply for hours worked over 40 in a work week.

When can an employee’s hours of work be changed?

The FLSA imposes no restrictions on the scheduling of employees, with the exception of the Child Labor provisions. Therefore, the FLSA does not limit an employer’s ability to change an employee’s work hours without giving prior notice or obtaining the employee’s consent (of course, such changes may be limited by prior agreements between the employer and employee and the employee’s representative).

Click on the link below for answers to these other FAQs:

► Is extra pay required for weekend or night work?
► When is overtime due?
► When are pay raises required?
► How are vacation pay, sick pay, holiday pay computed and when are they due?
► When must breaks and meal periods be given?
► When is double time due?

http://www.dol.gov/whd/flsa/faq.htm

Additional information regarding the Retail Industry in general may be found in WHD’s Fact Sheet #6, The Retail Industry Under the Fair Labor Standards Act (FLSA), at the following link:

CHILD LABOR:

Many students experience an increase both in their free
time and their need for extra cash around the holidays.
As many retailers have an increased need for seasonal /
part-time help at that same time, many employers will
fill their seasonal and/or part-time positions with young
workers. It is often a good fit for both parties.

WHD is committed to helping young workers find those
positive and early employment experiences that can
be so important to their development, but the work
must be safe. The youth employment provisions of the
FLSA were enacted to ensure that when young people
work, they work does not jeopardize their health,
well-being, or educational opportunities.

HAZARDOUS OCCUPATIONS:

The Secretary of Labor has defined 17 Hazardous
Occupations which are particularly hazardous for
16 & 17 year old minors, or detrimental to their health
or well-being. For a complete list of these restricted
occupations, please see WHD Fact Sheet # 43, Youth
Employment Provisions of the Fair Labor Standards Act
(FLSA) for Nonagricultural Occupations, at the
following link:

http://www.dol.gov/whd/regs/compliance/whdfs43.htm

Some of the most common violations found
regarding youth employment include employing 14 &
15 year-olds outside of allowable hours; allowing youth
employees to load, operate or unload a trash or
cardboard compactor, allowing employees under the
age of 18 to operate or to clean a meat slicer or
dough mixer, or allowing employees under the age of
18 to drive on public roadways as part of their
employment outside of prescribed limits.

For information regarding driving on the job by
employees under the age of 18, please see Wage
and Hour Fact Sheet #34, at:

http://www.dol.gov/whd/regs/compliance/whdfs34.htm

Violators of the youth employment provisions may be
subject to civil money penalties. These penalties may
be increased for each violation that results in the
death or serious injury of an employee who is a minor,
and may be doubled if the violation was determined
to be willful or repeated. For current penalty amounts,
see https://www.dol.gov/whd/FLSA/index.htm#cmp.

When state youth employment laws differ from the
federal provisions, an employer must comply with the
higher standard. Links to your state labor department
can be found at:

http://www.dol.gov/whd/contacts/state_of.htm

For additional information on the Fair Labor Standards
Act, visit the Wage and Hour Division Web site:

http://www.dol.gov/agencies/whd

and/or call our toll-free information and helpline,
available Monday – Friday, 8 a.m. – 5 p.m. in your time
zone: 1-866-4USWAGE (1-866-487-9243)

SOME BASICS:

Children 14 and 15 years of age may be
employed outside of school hours in a variety
of non-manufacturing and non-hazardous jobs
for limited periods of time and under specified
conditions. It is important to keep in mind that any
work that is not specifically permitted for these
14 and 15 year-old youth, as listed in the
Department’s child labor regulations, is strictly
prohibited.

Sixteen and 17-year-olds may be employed for
unlimited hours in any occupation other than
those declared hazardous by the Secretary of
Labor. Once a youth reaches 18 years of age,
he or she is no longer subject to the Federal youth
employment provisions.