

Fact Sheet #11: Automobile Dealers under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the application of the [FLSA](#) to automobile dealers.

Characteristics

Automobile dealers are non-manufacturing establishments engaged in the business of selling new or used automobiles and trucks to the ultimate purchaser.

Coverage

There are two types of coverage under the FLSA. Either or both may apply in a given situation depending on the circumstances.

Enterprise coverage applies to all employees of new or used automobile dealerships that have at least \$500,000 per year in gross sales.

Individual coverage applies to any employee whose work regularly involves commerce between states (“interstate commerce”) even if the employer’s annual sales are less than \$500,000.

Requirements

The [Federal minimum wage](#) is required to be paid to all non-exempt employees.

[Youth Minimum Wage](#): The 1996 Amendments to the FLSA allow employers to pay a youth minimum wage of not less than \$4.25 an hour to employees who are under 20 years of age during the first 90 consecutive calendar days after initial employment by their employer. The law contains certain protections for employees that prohibit employers from displacing any employee in order to hire someone at the youth minimum wage.

The FLSA requires the [overtime payment](#) of time and one half the employee’s regular rate of pay for all hours worked in excess of 40 in a workweek to all non-exempt employees.

Numerous exemptions exist that remove certain types of employees from specified requirements of the FLSA. Section 13(a)(1) of the FLSA, for example, exempts certain [managers and administrative](#) employees from the [minimum wage](#) and overtime requirements. Additionally, among the exemptions most commonly applicable to automobile dealerships is section 13(b)(10)(A), which exempts certain mechanics and sales and parts personnel, including service writers, service advisors, service managers, and service salesmen from the overtime requirements of the Act.

There is no requirement that wages be paid weekly, as long as some regular pay period (such as bi-weekly or monthly) is established by the employer. Once the employer has established the pay period the FLSA requires that employees receive “prompt payment” for [all hours of work](#) within the pay period. Although the “settlement period” does not have to coincide with the regular pay period, in the absence of strong evidence to the contrary it will be assumed that an employer intended that a settlement period for commissions represents the pay period for the affected employees. Periodic draws against commission earnings within the pay/settlement period may be less than the [minimum wage](#). Employers may credit such draws against their [minimum wage](#) obligation when settling the amount due to employees at the end of the pay/settlement period.

[Workers under the age of 18](#) are prohibited from working in certain jobs. With regard to minors operating vehicles for automobile dealers, generally, no employee under 18 years of age may drive or serve as an outside-helper on a motor vehicle on a public road; 17-year-olds who meet certain specific requirements may drive automobiles and trucks that do not exceed 6,000 pounds gross vehicle weight for limited amounts of time as part of their job ([see Fact Sheet #34](#)). Minors younger than 16 may work only during particular times of the day and for a limited number of hours. Minors under 14 may not be employed.

[Employers must keep records](#) showing their employees' names, hours worked, rates of pay, regular and overtime pay, home addresses, dates of birth (if they are under the age of 19), gender, and occupation.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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¹ On April 2, 2018, the Supreme Court ruled that service advisors are exempt from the overtime pay requirement of the FLSA because they are salesmen primarily engaged in servicing automobiles. Section 13(b)(10)(A). See [Encino Motorcars, LLC v. Navarro, 138 S.Ct. 1134 \(April 2018\)](#).