

Fact Sheet #45: Hotel and Motel Establishments Under the Fair Labor Standards Act (FLSA)

This fact sheet contains general information on how the FLSA applies to employees of hotels and motels.

Characteristics

The primary function of a hotel or motel is to provide lodging facilities to the general public. In addition, most hotels or motels provide food to guests and many sell alcoholic beverages. These establishments may also earn revenue from other activities such as valet services offering cleaning and laundering of garments for guests, news stands, and renting out rooms for meetings, lectures, trade exhibits, and weddings.

Coverage

The FLSA includes two methods for applying its provisions to employees of hotels or motels. The "enterprise" basis of coverage provides that if the employer's annual dollar volume of sales or business is \$500,000 or more, whether from only a single establishment or from an enterprise with multiple establishments, and the employer has at least two employees engaged in commerce or in the production of goods for commerce or handling such goods, all employees of the enterprise are covered by the FLSA. The FLSA also provides an "individual employee" basis of coverage that applies even if the annual volume of sales or business is less than \$500,000. Employees may still be covered if they individually engage in interstate commerce or produce goods for interstate commerce. Interstate commerce includes such activities as transacting business across state lines via interstate telephone calls or the U.S. Mail, ordering or receiving goods from an out-of-state supplier, or handling the accounting or bookkeeping for such activities. It would also include handling credit card transactions that involve the interstate banking and finance systems.

Requirements

Minimum Wage: Covered nonexempt workers must be paid at least the minimum wage of \$7.25 per hour effective July 24, 2009. Wages are due on the regular payday for the pay period covered. Deductions from wages for items such as required uniforms are illegal if they reduce the employee's wages below the minimum wage or cut into any overtime pay. Tips may be included as part of wages for employees who regularly receive more than \$30 a month in tips. However, the employer must pay at least \$2.13 an hour in direct wages to tipped employees and make sure that the amount of tips actually received by tipped employees is enough to meet the remainder of the minimum wage (or otherwise pay the difference in wages).

Overtime: Overtime must be paid at not less than one and one-half times the employee's regular rate of pay for each hour worked in excess of 40 a week. A tipped employee's regular rate for overtime purposes must include the amount of tip credit claimed by the employer, plus the reasonable cost or fair value of any facilities furnished to the employee as allowed by the FLSA (such as the cost of meals), and the cash wages including any commissions and certain bonuses paid by the employer.

Tips: Tipped employees are those who customarily and regularly receive more than \$30 a month in tips. If the employer elects to claim a tip credit, the employer must inform employees in advance, advise them of the

amount of tip credit to be claimed, and pay them at least the applicable [minimum wage](#) when wages and tips are combined. Also, employees must retain all of their tips, except to the extent that they participate in a valid tip pooling or sharing arrangement.

[Youth Minimum Wage](#): Employers may pay a youth minimum wage of not less than \$4.25 an hour to employees under 20 years old during the first 90 consecutive calendar days after initial employment by their employer. The law contains certain prohibitions against employers displacing any employee in order to hire someone at the youth minimum wage.

[Youth Employment](#): The FLSA child labor regulations forbid the employment of minors under age 14 in non-agricultural jobs, restrict the hours of work and limit the occupations for 14- and 15-year olds, and forbid the employment of minors under age 18 in hazardous occupations.

[Records](#): The FLSA requires employers to keep records of wages, hours, and other items, as specified in the record keeping regulations, [29 CFR Part 516](#).

[Exemptions](#): Section 13(a)(1) of the FLSA exempts bona fide executive, administrative, professional, and outside sales employees from the [minimum wage](#) and [overtime pay](#) requirements of the FLSA, if they meet certain tests regarding their job duties and responsibilities and are compensated "on a salary basis" at not less than stated amounts. Further information concerning these exemptions can be found in Regulations, [29 CFR Part 541](#).

Typical Problems Causing Non-Compliance Include:

- Employees placed on salary and classified as exempt without regard to the duties performed.
- Failure to maintain records of, or pay [overtime](#) to, non-exempt salaried employees.
- Failure to record and pay employees for [all hours suffered or permitted to be worked](#).
- Illegal deductions from pay for items like cash register shortages, uniforms, errors, bad checks, etc.
- Failure to pay the correct overtime rate to tipped employees, or failure to pay the correct overtime rate that includes all service charges, commissions, bonuses and all other remuneration.
- For employees paid with the tip credit: Tips not sufficient to make up the difference between the employer's direct wage obligation and the [minimum wage](#); employees receiving tips only; and sharing a portion of tipped employees' tips with employees who are not eligible because they do not normally receive tips such as dishwashers, cooks, chefs, and janitors.
- Paying straight time for hours worked beyond 40 per week instead of required [overtime pay](#), or averaging the number of hours worked over two or more weeks to avoid overtime pay.
- Failure to pay [minimum wage/overtime](#) to temporary help or employee leasing firm workers who are jointly employed by the hotel. Information concerning joint employment can be found in Regulations, [29 CFR Part 791](#).

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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