

Fact Sheet #10: Wholesale and Warehouse Industries Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the application of the [FLSA](#) to wholesale and warehouse industries.

Characteristics

The wholesale industry is characterized by the sale of goods for resale, rather than sales to the ultimate consumer.

The warehouse industry includes central warehouses for a business enterprise, public warehouses, and storage establishments.

Coverage

All employees of wholesale or warehouse employers whose gross annual dollar volume of sales made or business done is not less than \$500,000 are covered by the FLSA.

Even if a wholesale or warehouse business is not a covered enterprise, most employees will be covered by the FLSA on an individual basis. Individual coverage applies to all employees who are engaged in interstate commerce or the production of goods for commerce. Such employees include persons who receive, ship, transport, or load goods that are moving in commerce or who prepare or transmit documents relating to such shipments. Other persons, such as guards, janitors and maintenance employees who perform duties which are closely related and directly essential to such interstate activities are also covered by the FLSA.

It has been the experience of the Wage and Hour Division that virtually all employees of wholesale and warehouse businesses are covered by the Act's provisions.

Requirements

The FLSA sets basic [minimum wage](#) and [overtime pay](#) standards and regulates the employment of minors. Covered, nonexempt employees must be paid the [Federal minimum wage](#). Non exempt employees must also be paid time and one-half their regular rates of pay for all hours worked over 40 per workweek, regardless of whether paid an hourly rate, salary, piece rate, commission or other basis. Each workweek stands alone and there can be no averaging of hours over two or more workweeks.

[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.

No one under the age of 16 may work in a warehouse. Warehouse employers may not employ anyone under 16 years of age. Wholesalers may have employees as young as 14 in certain jobs, but only during closely regulated

hours and in very limited occupations. [Employees under age 18](#) may not engage in occupations which have been declared hazardous, including operating most power-driven hoisting apparatus such as forklifts.

Regulations, [29 CFR Part 516](#), specify the [records which are to be kept](#) on each employee. Most of the required records are of the type generally maintained by employers in ordinary business practices (employee names, addresses, hours of work, rates of pay, wages, deductions, etc.). These must usually be maintained for a 3-year period.

There may be employees within a covered business who are exempt from the [minimum wage](#) and/or overtime provisions of the Act. Bona fide [executive, administrative and outside sales persons](#) are exempt from both [minimum wage](#) and overtime provisions, if all the tests of the exemptions are met. Interstate drivers, mechanics, and loaders may be exempt from the Act's overtime provisions.

Typical Problems

There are some problems and misconceptions which Wage and Hour investigations commonly disclose in the wholesale and warehouse industry. These include:

The misapplication of the executive or administrative exemptions to non-exempt persons, such as clerical workers, working foremen, dispatchers, and inside salespersons.

- Employment of underage minors, especially in the operation of fork lifts and paper balers.
- The misconception that salaried employees need not be paid overtime.
- Failure to pay employees for all hours suffered or permitted to work, including time spent taking inventory, completing paperwork, etc. beyond the normal schedule.
- Failure to maintain time records on salaried or piece rate employees.
- Giving compensatory time off in lieu of overtime pay.
- Considering certain employees to be "contract labor" and thus, not covered by the Act's provisions.
- Deductions made for reasons other than board, lodging, etc., in overtime work weeks.

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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