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**THE FAIR LABOR STANDARDS ACT;  
WAGE & HOUR BASICS**

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## **THE FAIR LABOR STANDARDS ACT: Wage and Hour Basics**

### **I. INTRODUCTION**

The paper provides an overview of the Fair Labor Standards Act and related laws in the context of the requirement of paying minimum wage, overtime, and travel time for many employees.

The Fair Labor Standards Act (the “Act” or “FLSA”) was enacted in 1938 as part of President Franklin Roosevelt's "New Deal" legislation. The goal of the Act is to maintain the “minimum standard of living necessary for health, efficiency, and general well-being of workers.” 29 U.S.C. § 202(a). Essentially, the FLSA provides a floor under wages and a ceiling over hours.

At present more than 130 million workers in more than seven million workplaces are protected or “covered” by the FLSA, which is enforced by the Wage and Hour Division of the U.S. Department of Labor (“DOL”). Employers covered under the Act must comply with any federal, state, or municipal laws, regulations or ordinances, or collective bargaining agreements or employer implemented policies that provide greater benefits than those established by the FLSA. While FLSA standards may be exceeded, they cannot be waived or reduced. *Overnight Motor Transp. Co. v. Missel*, 316 U.S. 572 (1942).

#### **A. Coverage**

##### *1. Employer and Employee Relationships*

The FLSA applies to almost any relationship where there is an “employer” and “employee.” The Act applies to enterprises with employees who engage in interstate commerce, produce goods for interstate commerce, or handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce. For most companies, the test is \$500,000 or more in annual dollar volume of business (*i.e.*, the Act does not cover enterprises with less than this amount of business). 29 U.S.C. §203(s)(1).

However, the Act also covers the following industries regardless of their dollar volume of business: hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill, or disabled who reside on the premises; schools for children who are mentally, or physically disabled or gifted; preschools, elementary, and secondary schools, and institutions of higher education; and federal, state, and local government agencies. 29 U.S.C. § 203(r)(2)(a).

The Act exempts some employees from its overtime pay and minimum wage provisions, and it also exempts certain employees from the overtime pay provisions alone. The determination of who is covered and who is not covered is a political determination, made by Congress as it adopted and revised the FLSA and by the DOL, which administers and enforces it.

Under the FLSA, it often occurs that some employees in an industry may be covered while others are not. 29 U.S.C. § 206 and 207. Therefore, it is necessary to determine whether each individual employee is covered under the applicable rules.

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