

in their work. Furthermore, the successful people are not always those of genius ability. More frequently, they are just ordinary people who enjoy their vocation so much that they work a great deal more and a great deal harder than their fellowman. They keep working after others have quit. Work may be a "dirty four-letter word", but you will never break any laws by practicing it.

Ed Wollenberg, President

## HOW THE FAIR LABOR STANDARDS ACT APPLIES TO COUNTRY CLUBS AND GOLF COURSES

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The Fair Labor Standards Act of 1938, as amended in 1961 and 1966, establishes minimum wage, maximum hours, overtime pay, equal pay, and child-labor standards for covered employment, unless a specific exemption applies.

Prior to the 1966 amendments, the Fair Labor Standards Act only applied to employees individually engaged in interstate or foreign commerce, or in the production of goods for such commerce and to those employed in certain large enterprises. These employees, who were previously covered by the Act, are still subject to the Act and its amendments. Unless specifically exempt, newly covered employees will be subject to the wage and hour standards for newly covered employment which is included in the 1966 amendments.

Employees newly covered include employees in retail and service enterprises or other enterprises with gross annual volume of sales of at least \$500,000, effective after February 1, 1967 through January 1, 1969; and beginning February 1, 1969, employees in an enterprise with a gross annual volume of sales or receipts of at least \$250,000.

Any country club or public and private golf course which employs 2 or more persons engaged in commerce or handling, selling, or otherwise working on goods that have been moved in or produced for commerce, and meet specified dollar-volume tests for annual sales or business receipts is a covered enterprise and all employees are subject to the provisions of the Act.

### Minimum Wage and Overtime Provisions

Public golf courses that have an annual gross volume of sales made or business done, under \$250,000, exclusive of certain excise taxes, are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act.

Public golf courses which have an annual gross volume of sales of over \$250,000 must compensate employees with a minimum wage of at least \$1.30 an hour and pay for overtime at the rate of time and a half the regular rate of pay for hours worked over 40 in a workweek.

Private golf courses which have an annual gross volume of receipts of over \$1,000,000 must pay their employees a minimum wage of at least \$1.60 an hour and pay for overtime at the rate of time and a half the regular rate of pay for hours worked over 40 in a workweek.

Private golf courses which have an annual gross volume of receipts of over \$250,000, but less than \$1,000,000 must pay their employees a minimum wage of not less than \$1.30 an hour and pay for

overtime at the rate of time and a half the regular rate of pay for hours worked over 40 in a workweek.

A private club's golf course with an annual gross volume of sales or receipts under \$250,000 is not subject to the minimum and overtime provisions of the Act, except for individual employees engaged in handling goods received from other states and shipped in interstate commerce.

Annual gross volume of sales or receipts can be determined by adding the total of initiation fees, charges for use of club facilities, charges for food and beverages, membership dues, rental fees, assessments, fees paid to golf professionals and income from the pro shop if it is a part of the enterprise where goods and services can be obtained to meet the needs of the public or the club's members.

If the pro shop is privately owned, and operated as a separate retail establishment, the pro shop may be exempt, depending on annual dollar volume.

If the pro shop is owned by the club or golf course, its employees are covered by the minimum wage and overtime pay provisions of the Act; but if the shop is operated as a separate retail establishment and is open to the general public, it may be exempt depending on annual volume of sales and number of employees.

The minimum wage for employees currently due \$1.30 an hour must be increased to \$1.45 an hour beginning February 1, 1970 and increased again to \$1.60 an hour, beginning February 1, 1971.

Golf course ground crews engaged in cutting grass, edging, raking sand traps, weeding, and sodding or operating power equipment over the course are all workers covered by the minimum wage and overtime provisions of the Act.

Caddies are not definitely covered under the Act as the Wage and Hour and Public Contract Divisions has made no determination thus far as no court decisions are presently available. However, if a caddy performs other duties as a regular employee of the club, he may be entitled to the benefits of the law.

### Child-Labor Restricted

Sixteen years is the minimum age for most employment covered under the Act. This includes employment during school hours. Eighteen years is the minimum age for employment in occupations declared hazardous. A list of these is available upon request. Fourteen years is the minimum age for employment outside of school hours and for a limited number of hours under specified conditions. A copy of a guide to the child-labor provisions of the Fair Labor Standards Act may be had on request.

### Equal Pay

The equal pay provisions prohibit wage discrimination on the basis of sex within an establishment; when subject to the minimum wage, employees of one sex must not be paid wages at rates lower than those paid employees of the other sex for equal work on jobs requiring equal skill, effort, and responsibility which are performed under similar working conditions.

### Record Keeping

Employers are required to keep records on wages, hours, and other items in accord with regulations issued by the Secretary of Labor. No particular form of records is required. For employees subject to the minimum wage and overtime pay provisions, the following records are required:

Name, home address, and birth date if under 19; Sex and Occupation; Hour and day when workweek begins; Regularly hourly pay rate for any week when

overtime is worked; Hours worked each workday and total hours worked each workweek; total daily or weekly straight-time earnings; Total overtime pay for the workweek; Deductions or additions to wages; Total wages paid each pay period; and Date of payment and pay period covered.

Legal deductions include items, such as, social security payments made by employer for the employee, meals and lodging supplied to employees at cost; and income tax deductions. These are the basic records most employers usually maintain for their own information. Time clocks are not required, but, if used, a record of hours worked should be kept. Time cards need be kept only for two years, but records of the required information listed above should be preserved for three years. The Wage and Hour Poster must be displayed for the information of employees.

Records required for exempt employees differ from those for nonexempt workers.

Bona fide executive, administrative, and professional employees are generally exempt from minimum wage and overtime provisions of the Act. However, employers should maintain and preserve records containing the information and data concerning the first four items listed above.

#### **The Age Discrimination in Employment Act**

This Law became effective on June 12, 1968. It protects individuals 40 to 65 years old from age discrimination by any employer of 25 or more persons in an industry affecting interstate commerce. Employment agencies and labor organizations are also covered by the law.

It is a violation of the Law for an employer to fail or refuse to hire, or to discharge, or otherwise discriminate against any individual as to compensation, terms, conditions, or privileges of employment, because of age; to limit, segregate, or classify his employees so as to deprive any individual of employment opportunities, or adversely affect his status as an employee, because of age; to reduce the wage rate of any employee in order to comply with the Act.

Under the general regulations issued by the Wage and Hour Division, the term "Employee employed in a **bona fide executive capacity**," shall mean one whose primary duty consists of the management of the enterprise or of a recognized department; who customarily or regularly directs the work of two or more employees; who has the authority to hire or fire other employees, or whose recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other workers will be given particular weight; who customarily and regularly exercises discretionary powers; and in a public golf course does not devote more than 40 percent, or in a private course, 20 percent of his hours of work in a workweek, to activities related to the performance of the work of nonexempt employees; and who is compensated for his services on a salary basis, free and clear, at a rate of not less than \$100 per week. A golf course superintendent whose primary duties consist of the management of the golf course and who regularly directs the work of two or more other employees will meet all of the requirements of an executive if he is paid on a salary basis at a rate of not less than \$150 per week, under the law.

The term "employee employed in a **bona fide administrative capacity**," one whose primary duty consists of the performance of office or nonmanual work directly or related to management policies or general business operations of a country club or the club

members; who regularly exercises discretion and independent judgment; who primarily assists the club manager or president, or who performs under only general supervision, duties along specialized technical lines, requiring special training, experience or knowledge, and in a public golf course who does not devote more than 40 percent, or in a private course, 20 percent of his hours worked in the workweek, to activities, such as those performed by nonexempt workers, and who is paid a salary of not less than \$100 a week; provided he is paid on a salary basis of not less than \$150 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of office or nonmanual work directly related to management policies or general business operations of his employer or club members, which includes work requiring discretion or independent judgment, will meet all requirement of this exemption.

The Executive and Administrative Employee paid \$150 a week, as mentioned above, may perform non-exempt duties up to 50 percent of his working hours provided, of course, he meets all other qualifications.

Golf Course Superintendents meeting the qualifications enumerated previously are exempt from the minimum wage and overtime provisions of the Act. However, the grounds crew who may consist of the golf pro and his assistant, the caddy master, the starter, the golf course maintenance employees, the tennis pro and his assistant, may or may not be exempt, depending upon their qualifications. This is true also if the country club has a swimming pool, employing swimming instructors, and life guards.

A booklet, containing "Regulations and Interpretations, Part 541," which fully defines the Terms of Executive . . . Administrative . . . Professional . . . and Outside Salesman, will be mailed upon request.

The coverage of the Fair Labor Standards Act to club house executives and employees, including food and beverage workers, office staff, maintenance employees, locker-room attendants, porters, maids, and housemen will be published in an early issue of The Bull Sheet.

Inquiries about the Fair Labor Standards Act will be answered by mail or telephone at any regional or field office of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor. The Chicago Regional Office is located at 219 South Dearborn Street, Chicago, Illinois 60604. Telephone: 353-7246.

**Many thanks to Mr. Rimsay for the excellent article on the wage and hour law. Mr. Rimsay requested 6 copies in which one is to be sent to Washington, D. C. My first thoughts were President Nixon interrupting a cabinet meeting for his "Bull Sheet."**

**Editor, Dick**

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