

# Are you inviting labor problems ?

By JOE DOAN



Although the last Wage and Hour law was passed in 1967, certain provisions of the law remain unclear. Unknowingly, you may be treating your employees unfairly

People who handle the administration of wages or payrolls at golf and country clubs are responsible for fulfilling the requirements of the Fair Labor Standards Act in five general categories if they want to avoid confrontation with the U.S. Department of Labor. The categories cover: minimum wages, overtime, record keeping, child labor and equal pay standards.

Actually, clubs that do an annual gross volume in excess of \$1 million have been operating under the Wage and Hour regulations since 1961. Those clubs that do a volume between \$250,000 and \$1 million a year came under the Wage and Hour law on February 1, 1967. In both cases, however, there is still confusion and misunderstanding as to how to interpret provisions of the law.

Since the 1967 legislation was enacted, the Labor Department

has been attempting to clarify its provisions by publishing judicial opinions and decisions that have resulted from interpretations of the law. Department representatives also are available to explain the contents of Wage and Hour law to any group or individuals who may request it.

Addressing the April meeting of the Midwest Golf Course Superintendents' Assn., D.R. Robinette, an investigator for the Labor Department's Chicago region, emphasized that the department is not interested in witch hunts or punitive expeditions to force compliance with the Fair Labor laws, but only in explaining what must be done so that employees who work under the laws are remunerated fairly for their labors. Confrontation with the Labor Department is not to be feared, he said. Prosecution for non-willful violations of the Wage and Hour stan-

dards in the eight years since they have been enacted has been practically nil.

## *Minimum wages and overtime*

The most important provisions of the Wage and Hour law cover minimum wages and overtime. Clubs that do a volume exceeding \$1 million a year are required to pay an hourly minimum wage rate of \$1.60. Those in the \$250,000 to \$1 million category have to pay only \$1.30. Clubs in which the annual volume is below \$250,000 are exempt. Volume is based on revenue produced by initiation fees, dues, assessments, charges for use of the club or course, food and beverage sales, rentals, and fees paid to pros. (Even if the club professional is an independent operator and is not paid any kind of retainer fee, his volume must

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be added to the club's gross in determining its volume status under the Wage and Hour law.)

Overtime (any time over 40 hours a week), of course, must be paid on the basis of 1-1/2 times the employee's regular hourly rate. The Labor Department permits a club to include extra compensation, such as meals and lodging, to be considered in computing an employee's regular wage, but it doesn't insist on payment of an overtime rate that is partly based on extra compensation. As Robinette explained, it is permissible to pay an employee \$1.60 an hour and give him a daily meal charged off at 50 cents, then use \$1.60 and not \$2.10 as a basis for computing his overtime pay.

The Labor Department also permits a club to take into consideration the tips earned by a waiter (waitress) in computing his minimum pay, but there is an 80-cent-an-hour limitation. However, the club must prove that the waiter received the tips that are deducted or charged off against his wages.

Robinette cited a case in which a maintenance department employee agreed to work for a club for \$100 for a 45-hour week. The employee later found out that he was entitled to overtime for the five extra hours. When he appealed to the Labor Department, a decision was made in his favor. The club was instructed to figure his pay on an hourly basis—\$2.22 an hour—and then add 50 per cent or \$1.11 an hour for five hours to his paycheck to compensate for the overtime he worked. There is, however, a two-year limitation on appeals for adjustments of this kind. The Labor Department investigator also cited two cases which involved pro shop employees.

At one shop, an employee working on commission earned \$130 for a 50-hour week. The

professional was required to compute his remuneration on an hourly basis—\$2.60—and then pay the employee extra compensation at the rate of \$1.30 an hour for the 10 overtime hours he worked.

In a shop where an assistant worked on a salary-commission arrangement, his regular pay for 45 hours amounted to \$135. He earned an extra \$35 in commissions. When he appealed to the Labor Department, the professional was instructed to divide the assistant's total salary and commission of \$170 by 45 hours to establish a \$3.78 an hour rate. Then, the pro was required to pay the assistant an additional \$1.89 per hour to cover the five hours of overtime.

Supervisory personnel, and especially superintendents, Robinette advised, should remember that if an employee isn't sent home on a rainy day or under other conditions when it is impossible to work, he is to be considered on the job and must be paid for his time. Also, if an over-eager employee works overtime on his own, and the supervisor is aware of it, the employee is considered to be working. Supervisors are also cautioned against interrupting an employee while he is on his lunch hour. If an employee isn't relieved of all duties during the half hour or hour he is allowed for lunch, he can't be docked for the mealtime break.

The only employees at a club who don't come under the Wage and Hour law are those who work in food service. They must be paid either the \$1.30 or \$1.60 minimum, but they aren't entitled to the overtime rate. A food service employee is defined as one who spends at least 51 per cent of his time on the kitchen or food detail. Food service is construed as covering any area on the club grounds.

For employees who are exempt

from overtime pay because of their status as executive, administrative or professional personnel, the Labor Department prescribes two tests to determine if they come under these classifications. One, they must earn a minimum of \$100 a week and spend 80 per cent of their time in jobs that come under the above classifications. This provision applies only to private clubs. For semi-private clubs, it is 60 per cent. The second test stipulates that if a person earns \$150 or more a week, he can be classified as an out and out executive or manager and doesn't come under the Wage and Hour regulations regardless of how much or how little time he spends in these capacities.

### **Record keeping**

The Labor Department requires a club to maintain complete labor records on its employees. The work sheet or payroll record of each employee must record the following information: name, address, social security number, age (if under 19), sex, job description, hours worked per day, hours worked per week, rate of pay, straight time worked, overtime hours worked, deductions and net pay. However, it is not necessary to substantiate work records with time cards.

Another provision of the Wage and Hour law requires the club to keep for two years labor records covering each employee.

### **Child labor**

Part of the child labor regulations state that a boy or girl between the ages of 14 and 16 cannot be hired to do jobs that are considered hazardous. In fact, this particular restriction applies even to youngsters who are 18 years old or younger, although in many cases they come under the heading of state, not Federal laws.

Youngsters 14 or 15 years old aren't permitted to work more

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broader coverage. Usually, the policy will contain a small deductible clause of \$25 or \$50.

It is important that a country club purchase this coverage on golf cars owned or rented by the club because a member's personal liability insurance does not provide coverage on a golf car he might damage. His policy does, however, afford protection against negligent operation of the car should he injure either people or property.

All the mobile equipment used for the golf course and the superintendent's equipment, which is not licensed for highway use, should be scheduled under a equipment floater form. Again, it can be written for certain specific perils or on an "all risk" basis, with a deductible.

The deductible affords a discount in the premium because small losses will be absorbed by the country club.

Both the golf car floater and the mobile equipment floater contain a subrogation clause whereby the insurance company can look to the party who damages insured property for recovery of the amount of the claim paid. This right of subrogation should be removed against

members, guests, employees and other authorized persons who operate the insured cars or equipment with the club's consent.

Various other forms of inland marine floater insurance policies should be investigated by every country club.

### **Accounts receivable**

One of the most important is accounts receivable insurance. This policy protects the country club against its inability to collect club against its inability to collect its receivables due to lost, destroyed or damaged records.

While the coverage does not include credit coverage against bad debts, it aids the club in reconstructing its records, pays the interest on loans to continue operations and assists in collecting receivables. If the insurance company cannot effect the collections, the company reimburses the country club for the amount which would have been otherwise collected had the records not been destroyed.

### **Valuables**

The list of other forms of inland marine floater coverage that would apply to various exposures at a country club is long.

Valuable papers and records policy would cover historic, important or other documents which if lost or destroyed would be expensive to replace.

The country club public address system and piped-in music system would be covered under this form of insurance. Valuable musical instruments may be insured under the musical instruments form.

Valuable trophies should be insured under this "all risk" form of coverage in event that they are stolen or destroyed.

Cameras, motion picture equipment, stamp or other collections can be insured.

If the country club has neon signs at its entrance, for example, they can be covered under the neon sign form.

Many clubs lease data processing equipment and the lease requires insurance. The equipment can be insured for the perils required in the lease agreement.

Shipments, which a country club would make, can be insured under transit or mail forms. Wedding gifts, if temporarily held for a member on the club's premises, should be insured for the club's protection.

Almost every movable object on the club's premises can be covered under some form of inland marine insurance. □

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than three hours a day or more than 18 hours a week while attending school. In non-school weeks and during the summer, they are limited to a 40-hour-week. In addition, their work day must fall between 7 a.m. and 7 p.m. These are Federal regulations.

Caddies don't come under the Federal Wage and Hour statute. They are still regarded as independent contractors, according to Robinette. Possibly, this is because the status of the caddie in respect to working regulations has

never been tested in court.

### **Discrimination**

The age discrimination clause of the Fair Labor Standards Act prohibits an employer from refusing to hire a person because he or she is between the ages of 40 and 65. A promotion can't be denied a person in this age bracket simply because of age, nor can he be discharged or retired for the same reason. However, when a person reaches the age of 66, he is no longer protected by this provision of the Wage and Hour law.

In conjunction with discrimination, there can be no differentiation in wage rates because of sex. If a woman does the same job as a man, whether it is in the clubhouse, pro shop or out on the course, she is entitled to equivalent pay.

Copies of the Wage and Hour laws can be obtained from any U.S. Department of Labor regional office. As Robinette pointed out in addressing the Midwest association, it is wise to have a copy of the laws handy for reference and to discuss them with the club counsel or, if possible, a Department of Labor representative. □