When, What Wage Laws Apply to You

By WILLIAM LOOMIS

Unfair labor practices can cost a club thousands of dollars in back wages. Ignorance of the changes in the labor law is no excuse, according to the Labor Department

THERE have been some important changes in recent years in the Federal laws governing the way employees of establishments such as golf and country clubs must be paid whether they are salaried or on hourly schedules. But recent hassles between the Labor Department and certain clubs indicate that management may not be fully aware of what has taken place. However, Federal officials point out that ignorance of the changes will be no defense if a disgruntled employee hauls a club before the Labor Department and possibly into court.

Most importantly, the amount of sales a club must have annually to come under the Federal minimum wage laws has been dropping. Before February, 1967, the total was $1 million. On that date it dropped to $500,000. But on February 1, 1969, the total was lowered to only $250,000.

In addition, it is now almost painfully simple for the Government to include a club under these standards. To qualify, a club has to have only two employees handling goods that have moved in interstate commerce at some time before arriving at the club. If any two employees handle these goods, all employees are covered by Federal wage standards.

If the club is covered by these laws, the Federal minimum wage applies. For most workers, the hourly Federal minimum is $1.60. Kitchen workers and some other groups get $1.45. In most cases, the standard work week is 40 hours, although there are some exceptions where 48 hours or some such figure applies. Beyond that point time and a half must be paid.

IN addition, the law is very strict about putting workers on salary to get around paying minimum wages and overtime. On occasion, the Labor Department has turned up cases where a club has put all maintenance workers on straight salary and had them work seven days a week—at pay far below the minimum wage plus overtime. Under the law, this is illegal.

Labor Department officials point out that any salary paid a worker covered by Federal minimum wage laws— using the gross sales minimum and interstate handling provisions —must be paid as much as he would have received if he were paid the hourly Federal minimum wage.

For example, if a worker is due overtime after 40 hours, he must be paid $1.60 hourly up to 40 hours and $2.40 above that. If the same worker is being paid a straight salary it would have to equal the $1.60 per hour and the additional overtime amount if he works more than the standard work week. This includes workers who may be away from the club. Says one manager, "If anyone is away from the building for a day, you must show payment for it. If the pro goes on a trip for a pro-member tournament and he isn't getting paid from any other source, that whole time is *our* time and we have to pay him straight time and overtime."

THERE have not been many of these cases brought to court. Officials say that most establishments change their methods of compensation once they have been investigated. But one important exception is Deane Hill CC, Knoxville, Tenn. The club fought the Labor Department on several grounds in the U.S. District Court for Eastern Tennessee.

The case involved compensation of more than a dozen employees by methods not approved under the Federal Fair Labor Standards Act. But the club said it was not covered by the act for the year 1967 when the sales minimum was still $500,000.

Club lawyers argued that the club was exempt from the law because its revenues for the year were $497,762. The club did not include in its revenues sales of the pro shop, golf car rentals and the like, listing them as private contractors. But the Court held that these goods and services were actually sold and financed by the club or its members and should be included in total revenues. This pushed the club above the $500,000 cut-off point.

The Court also ruled against the club on the matter of handling interstate merchandise. Even though most of Deane Hill's goods were bought from local distributors, the Court found that a large part of the goods had moved in interstate commerce before reaching the distributors. This was sufficient to satisfy the test, the Court said.

Having determined that the club was covered by Federal wage laws, it ruled that the club had failed to pay the applicable minimum wage or overtime to many employees. There were no records of hours worked for 10 employees, although payroll records showed the amount they were paid. Other workers were simply not being paid enough, according to the ruling handed down on September 26, 1969.

The case resulted from a complaint to the Labor Department about the way the club was paying its workers. The challenge was filed by Labor Department secretary George Shultz.

What Federal fair employment laws cover:

- Any golf club involved in interstate commerce with an annual gross sales of at least $250,000
- Interstate commerce means having at least two employees that handle goods that have moved from one state to another
- Under Federal law, interstate commerce means goods of any sort that at some point in their manufacture or distribution through wholesalers and the like have gone across a state line
- Clubs covered by the law must pay Federal minimum wages of $1.60 for most workers and $1.45 for occupations such as kitchen workers
- Workers must be paid time and a half if they work more than the officially allowed Federal work week for their type of job. Most work weeks are 40 hours but some are 48
- Clubs cannot get around the Federal laws by paying workers straight salaries for the time they work. If a worker is on salary he must make as much as he would if he were paid the Federal hourly minimum. If a worker works overtime on salary he must make as much money as he would using the Federal scale for overtime
- A club in computing its gross sales must include the pro shop, golf car rentals and the like unless they are operated strictly independently of the club
- If a club does business with any of its members as suppliers, a close check must be made to assure that the results of the business transactions will not directly benefit the club—if they do this is apt to be ruled as part of the club's gross sales

THERE are several ways a club might suddenly find itself being investigated by the Labor Department. An employee or his representative may complain to the Labor Department's Wage & Hour Division. Another club with higher labor costs may complain. Or the Labor Department might start looking into an industry if officials feel, as one says, "we have sufficient general knowledge of the industry to believe a substantial portion of the members of that industry are not in compliance."

One midwestern manager puts it this way: "What it gets down to is that you need an hourly rate for anybody working for the club for over 40 hours. Then you must make sure you're paying them at a rate one and one-half times that for anything over 40 hours a week."

Dean Hill subsequently took its case to the 6th Circuit Court, which voted two to one against the club. Now the case has been appealed to the U.S. Supreme Court. However, no decision has been made as yet to hear the case or not.

A check of Labor Department officials in Washington and around the country shows no indication at this time that the Government is planning any specific crackdown on clubs.

But that does not rule out unannounced investigations of a specific club from time to time as well as investigations of workers' complaints. "I know it sounds corny," says one Washington official, "but the best way for a club to stay out of trouble is to check its operations against the laws. If the basic criteria covers club operations, the wisest thing to do is pay the proper minimums and avoid possible embarrassment." □