

# **LABOR STANDARDS INFORMATION FOR NEW BUSINESSES**



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U.S. DEPARTMENT OF LABOR  
Employment Standards Administration  
Wage and Hour Division

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This publication provides general information only and is not to be considered in the same light as official statements of position contained in Interpretative Bulletins and in opinion letters of the Wage and Hour Administrator. The ***Federal Register*** and the ***Code of Federal Regulations*** remain the official source for regulatory information published by the United States Department of Labor. We will make an effort to correct errors brought to our attention.

For additional information, visit our Wage-Hour website: [www.wagehour.dol.gov](http://www.wagehour.dol.gov) and/or call our Wage-Hour toll-free information and help line, available 8 a.m. to 5 p.m. in your time zone, 1-866-4US-WAGE (1-866-487-9243).

This material will be made available to sensory impaired individuals in an alternative format upon request.

TDD\* Phone (202) 693-7755

\* Telecommunication Device for the Deaf

## **INTRODUCTION**

The Wage and Hour Division (the Division) of the United States Department of Labor congratulates you on the creation of your new business. It is a big step, and we recognize the important role you play in our nation's economy.

Creation of a new business brings many new responsibilities, including compliance with federal wage and hour laws. Employers often have questions about some of those responsibilities. We are ready to provide you with the assistance and information you may need to properly and effectively stay in compliance with the laws and regulations administered by the Division. When employees are treated in a way that is consistent with our nation's employment standards laws, everyone benefits.

This package provides general information about the laws administered by the Division, and lists different resources designed to get you the information you need to comply with those laws. This information is available both through our offices and on the Internet. Our ***ELAWS (EMPLOYMENT LAWS ASSISTANCE FOR WORKERS AND SMALL BUSINESSES)*** program on the Internet ([www.dol.gov/elaws](http://www.dol.gov/elaws)) can even provide an answer to many of your questions any time of the day or night. This interactive program was designed to give advice to business owners – and other interested parties – in a question and answer format, similar to that used by a human expert.

## **BACKGROUND/OVERVIEW**

The Wage and Hour Division was created by the Fair Labor Standards Act of 1938. The Division is responsible for the administration and enforcement of a wide range of labor standards laws that collectively cover virtually all private, state and local government employment. The Division is comprised of a nationwide staff of investigators, supervisors, technical and clerical employees.

## **MISSION**

The Division's mission is to achieve compliance with the nation's labor standards through enforcement, administrative and educational programs. The Division enforces labor standards under the following laws:

- Fair Labor Standards Act;
- Employee Polygraph Protection Act;
- Family and Medical Leave Act;
- Davis-Bacon and Related Acts;
- McNamara-O'Hara Service Contract Act;
- Garnishment Provisions of the Consumer Credit Protection Act;
- Migrant and Seasonal Agricultural Worker Protection Act;
- Field Sanitation and Temporary Labor Camp Provisions of the Occupational Safety and Health Act;
- Temporary Worker Provisions of the Immigration and Nationality Act.

## **MAJOR STATUTES ADMINISTERED BY THE WAGE AND HOUR DIVISION**

### *FAIR LABOR STANDARDS ACT (FLSA)*

The FLSA requires that most employees in the United States be paid at least the minimum wage (currently \$5.15 per hour) and time and one-half their regular rate for hours worked beyond 40 in a workweek. Youth under 20 years of age may be paid not less than \$4.25 an hour during the first 90 consecutive calendar days of employment with an employer. The FLSA also includes child labor and recordkeeping provisions. The FLSA covers all workers who are engaged in or producing goods for interstate commerce or are employed in certain enterprises.

### *CHILD LABOR*

The FLSA sets 14 years of age as the minimum age for employment, and restricts hours of work and allowable occupations for 14 and 15 year olds. It also bans employment in specified hazardous occupations for those under 18 years of age. Special rules apply to minors employed in agriculture.

### *EMPLOYEE POLYGRAPH PROTECTION ACT (EPPA)*

The EPPA limits private employers in the use of lie detector tests either for pre-employment screening of job applicants or for testing current employees during the course of employment. Polygraph tests are permitted under limited circumstances and subject to certain restrictions.

### *FAMILY AND MEDICAL LEAVE ACT (FMLA)*

The FMLA requires employers of 50 or more employees (and all public agencies) to provide eligible employees up to 12 weeks of unpaid, job-protected leave each year for the birth and care of a newborn child, for placement with the employee of a child for adoption or foster care, or for the serious illness of the employee or of the employee's child, spouse or parent.

### *CONSUMER CREDIT PROTECTION ACT (CCPA)*

The CCPA's wage garnishment provisions limit the amount of an individual's disposable income that may be legally garnished and prohibit an employer from firing an employee whose pay is garnished for payment of any single debt.

### *DAVIS-BACON AND RELATED ACTS (DBRA)*

The DBRA require payment of prevailing wages and fringe benefits to laborers and mechanics employed by contractors and subcontractors engaged in federally financed and assisted construction projects.

### *MCNAMARA-O'HARA SERVICE CONTRACT ACT (SCA)*

The SCA requires payment of prevailing wages and fringe benefits to service employees of contractors and subcontractors furnishing services to agencies of the U.S. Government.

## *IMMIGRATION AND NATIONALITY ACT (INA)*

Under the INA:

- Employers are required to verify the employment eligibility of all the individuals they hire and to keep Immigration and Naturalization Service (INS) Forms I-9 on file for at least 3 years or one year after employee termination, whichever is longer;
- Section H-2A provides for enforcement of contractual obligations of job offers to which employers of temporary nonimmigrant agricultural workers have certified;
- Section D-1 provides for enforcement of employment conditions attested to by employers seeking to employ alien crewmembers to perform specified longshore activities at U.S. ports;
- Section H-1B provides for enforcement of labor condition applications filed by employers wishing to employ, temporarily, nonimmigrants in specified professional occupations; and
- Section H-1C provides for enforcement of attestations filed by qualified hospitals within a "health professional shortage area" wishing to employ, temporarily, nonimmigrants as registered nurses.

## *MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (MSPA)*

The MSPA protects migrant and seasonal agricultural workers in their dealings with farm labor contractors, agricultural employers, agricultural associations and providers of migrant housing. All persons and organizations subject to the MSPA must observe certain rules when recruiting, soliciting, hiring, employing, transporting, or housing these workers, or when furnishing them to other employers.

## *FIELD SANITATION PROVISIONS OF OCCUPATIONAL SAFETY AND HEALTH ACT (OSHAct)*

The OSHAct was enacted to assure safe and healthful working conditions for workers. Agricultural employers are required to allow reasonable use of employer provided toilets, potable drinking water and hand-washing facilities to hand-laborers in the field, and inform each employee of the importance of good hygiene.

## *AGRICULTURAL TEMPORARY LABOR CAMP PROVISIONS OF OSHAct*

Employers providing temporary housing to agricultural workers must meet certain standards for health and safety. These standards apply for housing built or under construction after April 3, 1980, or contracted to be built after March 4, 1980.

## **EASY TO UNDERSTAND INFORMATION EXPLAINING LEGAL REQUIREMENTS**

The Division has plain language publications that businesses like yours have found useful in determining how to comply with federal worker protection laws. The following list of publications may be obtained from the nearest Division District Office. The list can be seen on the Division's Internet site: [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

## PUBLICATIONS AVAILABLE FROM DIVISION OFFICES AND THE INTERNET

[www.wagehour.dol.gov](http://www.wagehour.dol.gov)

- The Handy Reference Guide to the FLSA
- Employees' Rights Under the FLSA
- Compliance Guide to the FMLA
- Labor Protections and Welfare Reform
- Child Labor Requirements In Nonagricultural Occupations Under the FLSA
- Change in Child Labor Law Affecting Loading Scrap Paper Balers and Paper Box Compactors
- H-2A Compliance Checklist
- Fact Sheets

### **OTHER MAJOR STATUTES ADMINISTERED BY THE U.S. DEPARTMENT OF LABOR**

Other U.S. Department of Labor agencies enforce additional worker protection statutes. A summary of the most significant ones follows, along with appropriate Internet addresses.

- The **Employee Retirement Income Security Act (ERISA)** governs certain activities of most employers who have pension or welfare benefit plans. The Employee Benefits Security Administration (EBSA) administers ERISA.
  - ◆ The EBSA home page is <http://www.dol.gov/ebsa>.
  - ◆ The EBSA ELAWS Advisor page is [www.dol.gov/elaws/pwbaplan.htm](http://www.dol.gov/elaws/pwbaplan.htm)
  - ◆ The EBSA health benefits e-laws advisor, <http://www.dol.gov/elaws/ebsa/health/7.asp>, provides general information on the laws that may apply when an employee or a member of an employee's family member faces a life or work event that affects group health plan benefit.
- The **Occupational Safety and Health Act (OSHAct)**, which is administered by the Occupational Safety and Health Administration (OSHA), regulates safety and health conditions in most private industry workplaces (except those regulated under other federal statutes, e.g., the transportation industry).
  - ◆ The OSHA home page is [www.osha.gov](http://www.osha.gov).
  - ◆ The OSHA eTools page is <http://www.osha.gov/dts/osta/oshasoft/index.html>.
- The **Uniformed Services Employment and Reemployment Rights Act (USERRA)** ensures that those who serve in the armed forces have a right to reemployment with the employer they were with when they went in service, including those called up from the reserves or National Guard. USERRA is administered by the Veterans' Employment and Training Service (VETS).
  - ◆ The VETS home page is [www.dol.gov/vets](http://www.dol.gov/vets).
  - ◆ The USERRA ELAWS Advisor page is [www.dol.gov/elaws/userra0.htm](http://www.dol.gov/elaws/userra0.htm)
- The **Labor Management Reporting and Disclosure Act (LMRDA)** (also known as the Landrum-Griffin Act) deals with the relationship between a union and its members. It ensures certain basic standards of democracy and fiscal responsibility in labor organizations. The Office of Labor-Management Standards (OLMS) administers this Act.
  - ◆ The OLMS home page is [www.dol.gov/esa/olms\\_org.htm](http://www.dol.gov/esa/olms_org.htm).

- Non-discrimination and affirmative action requirements apply to certain federal contractors under **Executive Order 11246, Section 503 of the Rehabilitation Act** and the **Vietnam Era Veterans' Readjustment Assistance Act**. These programs prohibit discrimination and require affirmative action with regard to race, sex, ethnicity, religion, disability and veterans' status. The Office of Federal Contract Compliance Programs (OFCCP) administers these programs.
  - ◆ The OFCCP home page is [www.dol.gov/esa/ofccp/index.htm](http://www.dol.gov/esa/ofccp/index.htm).
  - ◆ The OFCCP ELAWS Advisor Page is [www.dol.gov/elaws/ofccp0.htm](http://www.dol.gov/elaws/ofccp0.htm).
- The goal of the **Federal Mine Safety and Health Act** is to improve working conditions in the nation's mines. Its provisions cover all miners and other persons employed to work on mine property. The Mine Safety and Health Administration (MSHA) administers the Act.
  - ◆ The MSHA home page is [www.msha.gov](http://www.msha.gov).
  - ◆ The MSHA Forms ELAWS Advisor page is <http://www.dol.gov/elaws/msha/forms/forms.htm>
  - ◆ The MSHA Fire Suppression and Fire Protection Advisor page is [www.dol.gov/elaws/fire\\_surp.htm](http://www.dol.gov/elaws/fire_surp.htm);
  - ◆ The MSHA Training Plan Advisor page is [www.dol.gov/elaws/msha\\_train.htm](http://www.dol.gov/elaws/msha_train.htm).
- The **Black Lung Benefits Act (BLBA)** provides for monthly payments and medical treatment to coal miners totally disabled from pneumoconiosis (black lung disease). The Act also provides for payments to certain family members of miners who died from, or are totally disabled because of pneumoconiosis. The Office of Workers' Compensation Programs (OWCP) administers the Act.
  - ◆ The OWCP home page is [www.dol.gov/esa/owcp\\_org.htm](http://www.dol.gov/esa/owcp_org.htm).

More detailed information on these Acts may be obtained either from the cited agency or from the Department of Labor's Employment Law Guide. The Employment Law Guide may be downloaded off the Internet at [www.dol.gov/asp/programs/guide.htm](http://www.dol.gov/asp/programs/guide.htm).

### **STATE AND LOCAL LAWS**

States and other jurisdictions often have their own employment standards laws. If both federal and state or local law apply to your business, your employees are entitled to the most generous benefit provided under either law. States use various names for the agencies regulating employment practices; however, common names for such state agencies are: Department of Consumer and Industry Services, Employment Services, Human Resources, Industrial Relations, Labor, or Workforce Development. For more information about your state's labor laws, look under the listing for State Government Agencies of your local telephone book or check the Internet at: [www.dol.gov/esa/contacts/state\\_of.htm](http://www.dol.gov/esa/contacts/state_of.htm).