

Coverage under the Fair Labor Standards Act



U.S. Department of Labor
Wage and Hour Division



Coverage

More than 135 million workers in more than 7 million workplaces are protected or “**covered**” by the Fair Labor Standards Act (FLSA), which is enforced by the Wage and Hour Division of the U.S. Department of Labor



Coverage

Two types of coverage:

- Enterprise coverage: If an enterprise is covered, all employees of the enterprise are entitled to FLSA protections; and
- Individual coverage: Even if the enterprise is not covered, individual employees may be covered and entitled to FLSA protections



Enterprise Coverage

A business may operate a covered enterprise under the FLSA if:

- It engages in ordinary commercial activities—performed for a business purpose—that result in sales made or business done of no less than \$500,000 (the Annual Dollar Volume or “ADV” threshold).
- It has two or more employees engaged in commerce or in the production of goods for commerce.

Note: *§3(s)(1)(A) – Enterprise Coverage*



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Enterprise Coverage- Nonprofits

- As a general matter, non-profit organizations are **not** covered enterprises under the FLSA unless they engage in *ordinary commercial activities* that result in sales made or business done that meet the \$500,000 threshold.
 - Ex: operating a gift shop
- Activities that are *charitable* in nature, however are not considered ordinary commercial activities



Enterprise Coverage

A business may also be a "named enterprise."

- Named enterprises include hospitals, organizations providing medical or nursing care for residents, schools, preschools, and government agencies (federal, state, and local).
- Named enterprises are covered regardless of their ADV.
- Every employee of a named enterprise is entitled to minimum wage and overtime protections, unless the employee is exempt.



Individual Coverage

Employees of businesses who are not covered on an enterprise basis *may still be covered individually.*

- The employee's (not the establishment's) activities, determine coverage.
- Individual coverage applies on a workweek basis.

Note: 29 C.F.R. §776.0 – *Individual Coverage*



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Individual Coverage

Includes workers who are engaged in:

- Interstate commerce or the production of goods for interstate commerce
- Domestic service—including home care.

Note: 29 C.F.R. §776.11 – *Individual Coverage*



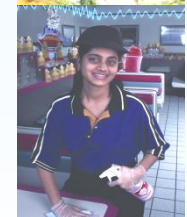
Individual Coverage

- Interstate commerce includes:
 - making out-of-state phone calls;
 - receiving/sending interstate mail or electronic communications;
 - ordering or receiving goods from an out-of-state supplier;
 - handling credit card transactions or performing the accounting or bookkeeping for such activities.



Additional Information

- Visit the WHD homepage at:
 - <http://www.dol.gov/whd/overtime/final2016>
 - www.wagehour.dol.gov
- Call the WHD toll-free information and helpline at
 - 1-866-4US-WAGE (1-866-487-9243)
 - Call or visit the nearest Wage and Hour Division Office
- Use the DOL interactive advisor system - *ELAWS* (Employment Laws Assistance for Workers and Small Businesses) at: www.dol.gov/elaws



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