

Oregon Revises Overtime Rules and Hour Restrictions

Last month, Oregon enacted a new law clarifying state overtime requirements for manufacturers and revising limits on work hours for employees in mills, factories and manufacturing establishments. While the new overtime rules took effect immediately, the revised maximum hour restrictions will take effect January 1, 2018. Manufacturers should review and, as needed, update their pay and scheduling practices to ensure compliance.

Background

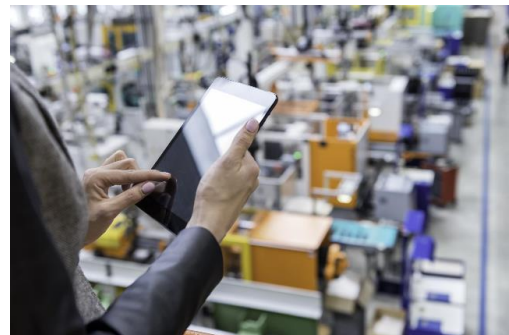
Both federal and state laws require the payment of overtime, and most employers generally have to pay their nonexempt employees an overtime premium for hours worked over 40 in a workweek. In Oregon, special overtime rules apply to government agencies, hospitals, canneries and manufacturing establishments.

Under Oregon law, workers employed in mills, factories, and manufacturing establishments generally must be paid at one and one-half times their regular rate of pay for hours worked in excess of 10 in any day as well as any hours worked over 40 per week. Existing law caps their work hours at 13 hours in any one day. Limited exceptions from the hours restrictions and daily overtime requirements exist for the timber industry as well as for individuals performing certain job duties.

Historically, the Oregon Bureau of Labor and Industries (BOLI) advised employers to calculate overtime pay for employees in mills, factories, and manufacturing establishments on both the daily and weekly bases and pay the greater of the two amounts. In December 2016, BOLI changed its interpretation of the overtime pay requirements for these workers to require employers to pay both daily and weekly overtime hours, without an offset. Updated BOLI [guidance](#) made clear that the daily and weekly overtime rules operated independently, and manufacturing employers were required to calculate – and pay – both the amount of daily and weekly overtime earned.

Revised Rules for Manufacturers

On August 8, Oregon Governor Kate Brown signed into law [House Bill 3458](#), which applies to most Oregon employers engaged in “manufacturing” (i.e., the “process of using machinery to transform materials, substances or components into new products”), and generally covers nonunion employees in mills, factories, and



manufacturing establishments that perform duties in connection with production machinery. It does not, however, cover employees whose principal duties are administrative in nature or “who are not otherwise engaged in the direct processing of goods in the usual course of [their] duties.”

New Overtime Rules

Under the new law, employers are permitted to pay nonexempt employees in mills, factories, and manufacturing establishments the greater of daily or weekly overtime. The law also imposes new maximum limits on hours in the workweek for manufacturing employees.

Maximum Hours

Existing law already caps work hours for those employed in mills, factories, and manufacturing establishments, but the new law imposes new limitations. With certain narrow exceptions, employers may not require employees to begin a shift less than 10 hours after finishing a prior shift of eight or more hours. While employees generally will not be permitted to work more than 55 hours in a workweek, an employee may work up to 60 hours in a workweek if he or she requests or consents in writing to do so. Different rules apply to sawmills, planing mills, shingle mills, and logging camps, as well as to canneries, driers, packing plants, and seafood processors.

Employers that process perishable products (including agricultural crops, meat and fish) in the ordinary course of business are eligible to claim an undue hardship period exemption for the period of time during which perishable products must be processed after harvesting, slaughter, or catch. If they provide notice to BOLI and obtain each affected employee’s written consent, those employers may permit employees to work up to 84 hours a workweek for four workweeks and up to 80 hours a workweek for the remainder of the undue hardship period. An employer may be eligible for more than one such exemption in a calendar year, but the combined total duration cannot exceed 21 weeks in that year. BOLI is expected to prescribe forms for notice and consent purposes.

Enforcement

Under the new law, employers are prohibited from discharging, refusing to hire, discriminating, or retaliating against employees – or prospective employees – who inquire about their rights to overtime pay, report violations, file complaints, or decline to work more than 55 hours in a workweek. To enforce their rights, employees may either file complaints with BOLI or, beginning in 2018, bring private civil actions. BOLI may assess civil penalties of up to \$3,000 per violation.

Effective Dates

The law’s provision that affects how manufacturing employers calculate daily and weekly overtime took effect immediately, while the provisions setting new limits on hours that can be worked in a week take effect January 1, 2018.

In Closing

Oregon’s new law clarifies state overtime requirements for manufacturers and revises limitations on work hours for employees in mills, factories, and manufacturing establishments. Manufacturers should review and update their pay and scheduling practices to ensure compliance.

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