



HR

Legal Compliance

Courtesy of Meridian Benefits Consulting

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Does the Fair Labor Standards Act (FLSA) affect me as an employer? What effect does it have on state and federal labor laws? What aspects of the FLSA should an employer consider?

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The FLSA applies to enterprises that:

- Have at least two employees;
- Are hospitals, businesses providing medical or nursing care for residents, schools and preschools, or government agencies; and
- Have a gross annual volume of sales of at least \$500,000, unless the enterprise is not subject to the dollar value test (according to 29 U.S.C. §203(r)(1), §203(s)(1))

Most employers in today's market are considered covered enterprises. It's important for covered employers to understand the FLSA and create policies and procedures that comply with it. Failing to do so could result in costly litigation.

Only when state labor laws are more favorable to the employees do they take precedence over the FLSA. State laws that create more generous wage and hour benefits for employees or provide more strict requirements of employers than the FLSA are acceptable. Certain state law exceptions are utilized stating that they apply only if the FLSA does not already apply.

Some common mistakes employers make regarding the FLSA include:

- Taking incorrect deductions from exempt employees' salaries (eg., if inclement weather causes a place of employment to close for the day, the employer cannot deduct the day's pay from the employee's salary. However, if the company stays open during the inclement weather and the employee does not come in to work, the day's pay can be deducted from the employee's salary);
- Not paying employees for job-related tasks completed before and after their shifts (eg., time spent clocking in should be paid);
- Only rounding down employees' times for clocking in and out—if employers round at all, they must round both up and down;
- Not reviewing and updating the statuses (exempt or nonexempt) of employees; and

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- Misclassifying employees as independent contractors.

Employers are encouraged to follow up by researching the FLSA as well as any applicable state laws and how they apply. Failure to do so could result in costly litigation as well as fines.