Fair Labor Standards Act

Ashneet Sharma and Nigel Bocanegra
What We Will Be Covering

- History of the FLSA
- Coverage
- Provisions
- Updates
- Enforcement mechanism
History of the FLSA

- A culmination of years of advocacy
- First draft featured a 30 hour work week
- Revised bill was introduced in 1937
- Signed into law in June of 1938
- FDR considered the FLSA a vital piece of the New Deal
Who is Covered?

- Most American workers are covered by FLSA
- Enterprise vs Individual coverage
- Who is not covered?
- Some states expand coverage
Minimum Wage

- First law to set a minimum wage for workers in the United States
- Federal minimum wage also applies to agricultural employees
- $7.25/hour effective July 24, 2009
- Wages: salary, hourly and piece rates, commissions, certain bonuses, tips, and cost of room and board
Minimum Wage

- Deductions from pay cannot be for the benefit of the employer nor can they reduce earnings below the minimum wage.
- Employees must be paid for all time that the FLSA designates as "hours worked":
  - Time engaged to wait, on-call, in training, traveling, or sleep time.
- Breaks 20 minutes or less should be paid, meal periods lasting 30 minutes or more should not be paid.
Minimum Wage - Agricultural Exemptions

- Employers who utilize less than 500 “man days” of agricultural labor
  - Man day: any day during which an employee performs agricultural work for at least one hour
- Ag employees who are immediate family members of their employer
- Those engaged in the production of livestock
- Local land harvest laborers who commute, are paid on piece rate basis, and were engaged in agriculture less than 13 weeks during the preceding year
- Non-local minors, 16 and under, who are hand harvesters, paid on a piece rate basis, and employed on the same farm as their parent
Youth Employment

Hazardous jobs:

- Manufacturing explosives
- Driving or working as a helper on motor vehicles
- Mining
- Forest fire fighting
- Power driven machines
- Exposure to radioactive substances
- Manufacturing of brick or tile
- Wrecking or demolition
- Roofing operations
- Trenching and excavation

What Hours are Minors Allowed to Work?

**UNDER AGE 14**
- Kids under age 14 cannot work non-agricultural jobs unless employed by their parents in non-hazardous industries

**AGES 14 - 15**
- 3 hours per school day to 8 hours per non-school day
- 18 hours per school week to 40 hours per non-school week
- Generally, working hours must be between 7 a.m. to 7 p.m

**AGES 16 - 17**
- No hours limit
- Kids under 18 cannot work in a hazardous industry

**AGES 18 and OVER**
- No hours limit
Youth Employment (Farm Jobs)

- Minors under 12 may perform jobs on farms owned by parents, or with a parent’s written consent, outside of school hours in non hazardous jobs not covered by minimum wage requirements.
- Minors 12 and 13 may work outside of school hours in non hazardous jobs, with parental consent.
- Minors 14 and 15 may perform any non hazardous farm job outside of school hours.
- Minors 16 and older may perform any job for unlimited hours.
- Youth minimum wage - no less than $4.25/hour to employees under 20 during first 90 calendar days after initial employment.
Recordkeeping

- The FLSA requires employers to keep records of:
  - Personal information (name, home address, occupation, sex, and birth date if under 19)
  - Hour and day when work week begins
  - Total hours worked each workday and workweek
  - Total daily or weekly straight time earnings
  - Regular hourly pay rate for any week when overtime is worked
  - Total overtime pay for the workweek
  - Deductions from or additions to wages
  - Total wages paid each period
  - Date of payment and pay period covered
Recordkeeping

- Keep wage computation records for 2 years and payroll, collective bargaining agreement, and sale/purchase information for 3 years.
- Timekeeping is required, but a time clock is not. Any complete and accurate plan will suffice.
- Employers must display an official poster that outlines the provisions of the FLSA, provided by the Wage and Hour Division.
Overtime Provisions

- Time and a half for work over 40 hours per week

- How is overtime calculated?

- Overtime exemptions
State vs Federal Overtime for Agriculture
Where Employers Go Wrong

● They fail to maintain required records

● They misclassify agricultural workers

● They face joint employer issues
Relevant Updates - Ash

- Amendments have increased the minimum wage (1955, 1966, 1974, 1977, 1989)
- 2007 Fair Minimum Wage Act increased it to its current value gradually, to $7.25/hour as of 2009.
- 1961 Amendment added enterprise coverage
- 1963 Equal Pay Act made it illegal to pay employees less based on their sex
- 1967 Age Discrimination in Employment Act prohibited discrimination against people 40 or older
- 1983 MSPA protects farm workers
- 2004 Rule change to overtime and minimum wage exemptions
FLSA Provisions in Summary

- Establishes the federal minimum wage
- Places restrictions on child labor
- Creates recordkeeping requirements
- Mandates Overtime pay
Enforcement of the FLSA

- Enforced by the Wage and Hour Division (WHD)
- How are employers selected to be investigated?
  - Some are triggered by complaints
  - WHD will also target types of businesses or industries
- How are investigations conducted?
  - Investigator contacts employer
  - Review of records to determine which provisions apply
  - Review of payroll records
  - Employee interviews
  - Findings reported to employer
  - The employer has an opportunity to present additional information
Enforcement of the FLSA (cont.)

- Consequences of violations
  - Remedies for minimum wage and overtime violations
  - Penalties for child labor law violations
  - Penalties for willful or repeated violations
- Statute of limitations will apply
- Employers cannot retaliate against workers who file complaints or provide information to DOL