

SENATE BILL NO. 468—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 27, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes changes relating to overtime and the calculation of hours worked for certain domestic service employees. (BDR 53-149)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to wages; authorizing a domestic service employee who resides in the household where he or she works and his or her employer to enter into a written agreement to exclude from the employee's wages certain specified periods for meals, sleep and other free time; authorizing such an agreement to be used to establish the number of hours worked by the employee during a pay period; revising provisions relating to the payment of certain compensation for overtime to a domestic service employee who resides in the household where he or she works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires an employer to pay compensation to an employee for
2 each hour the employee works. (NRS 608.016) Existing federal regulations allow a
3 domestic service employee who resides in the household where he or she works and
4 his or her employer to agree to exclude from the employee's wages certain periods
5 of complete freedom from all duties. (29 C.F.R. § 552.102) **Section 1** of this bill
6 enacts provisions based on federal regulations to provide that a domestic service
7 employee who resides in the household where he or she works and his or her
8 employer may agree to exclude from the employee's wages certain periods for
9 meals, sleep and other periods of complete freedom from all duties. Under **section**



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10 1, if a period excluded from the employee's wages is interrupted by a call to duty
11 by the employer, the interruption must be counted as hours worked for which
12 compensation must be paid.

13 Existing law requires an employer to pay 1 1/2 times certain employee's
14 regular wage rates for certain periods of overtime. (NRS 608.018) Under existing
15 law, domestic service employees who reside in the household where they work are
16 exempt from this requirement. (NRS 608.018, 608.250) **Section 2.5** of this bill
17 provides that such an employee is exempt from the requirement to pay overtime
18 compensation only if the employee and his or her employer have agreed in writing
19 to exclude the employee from the requirement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 608 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. If a domestic service employee resides in the household
4 where he or she works, the employer and employee may agree in
5 writing to exclude from the employee's wages:*

6 *(a) Periods for meals if the period for meals is at least one-half
7 hour for each meal;*

8 *(b) Periods for sleep if the period for sleep excluded from the
9 employee's wages does not exceed 8 hours; and*

10 *(c) Any other period of complete freedom from all duties
11 during which the employee may either leave the premises or stay
12 on the premises for purely personal pursuits. To be excluded from
13 the employee's wages pursuant to this paragraph, a period must be
14 of sufficient duration to enable the employee to make effective use
15 of the time.*

16 *2. If a period excluded from the employee's wages pursuant
17 to this section is interrupted by a call to duty by the employer, the
18 interruption must be counted as hours worked for which
19 compensation must be paid.*

20 *3. An agreement pursuant to this section may be used to
21 establish the employee's total hours employed in a pay period in
22 lieu of maintaining precise records of the number of hours worked
23 per day. The employer shall keep a copy of the agreement and
24 indicate in the record of wages pursuant to NRS 608.115 that the
25 employee's work time generally coincides with the agreement. If it
26 is found by the parties that there is a significant deviation from the
27 initial agreement, a separate record must be kept for the period in
28 which the deviation occurs or a new agreement must be reached
29 that reflects the actual facts.*

30 **Sec. 2.** NRS 608.016 is hereby amended to read as follows:

31 608.016 Except as otherwise provided in NRS 608.0195 **H**
32 **and section 1 of this act**, an employer shall pay to the employee



1 wages for each hour the employee works. An employer shall not
2 require an employee to work without wages during a trial or break-
3 in period.

4 **Sec. 2.5.** NRS 608.018 is hereby amended to read as follows:

5 608.018 1. An employer shall pay 1 1/2 times an employee's
6 regular wage rate whenever an employee who receives
7 compensation for employment at a rate less than 1 1/2 times the
8 minimum rate prescribed pursuant to NRS 608.250 works:

9 (a) More than 40 hours in any scheduled week of work; or

10 (b) More than 8 hours in any workday unless by mutual
11 agreement the employee works a scheduled 10 hours per day for 4
12 calendar days within any scheduled week of work.

13 2. An employer shall pay 1 1/2 times an employee's regular
14 wage rate whenever an employee who receives compensation for
15 employment at a rate not less than 1 1/2 times the minimum rate
16 prescribed pursuant to NRS 608.250 works more than 40 hours in
17 any scheduled week of work.

18 3. The provisions of subsections 1 and 2 do not apply to:

19 (a) ~~Employees~~ *Except as otherwise provided in paragraph*
20 *(o), employees* who are not covered by the minimum wage
21 provisions of NRS 608.250;

22 (b) Outside buyers;

23 (c) Employees in a retail or service business if their regular rate
24 is more than 1 1/2 times the minimum wage, and more than half
25 their compensation for a representative period comes from
26 commissions on goods or services, with the representative period
27 being, to the extent allowed pursuant to federal law, not less than 1
28 month;

29 (d) Employees who are employed in bona fide executive,
30 administrative or professional capacities;

31 (e) Employees covered by collective bargaining agreements
32 which provide otherwise for overtime;

33 (f) Drivers, drivers' helpers, loaders and mechanics for motor
34 carriers subject to the Motor Carrier Act of 1935, as amended;

35 (g) Employees of a railroad;

36 (h) Employees of a carrier by air;

37 (i) Drivers or drivers' helpers making local deliveries and paid
38 on a trip-rate basis or other delivery payment plan;

39 (j) Drivers of taxicabs or limousines;

40 (k) Agricultural employees;

41 (l) Employees of business enterprises having a gross sales
42 volume of less than \$250,000 per year;

43 (m) Any salesperson or mechanic primarily engaged in selling
44 or servicing automobiles, trucks or farm equipment; ~~and~~



1 (n) A mechanic or worker for any hours to which the provisions
2 of subsection 3 or 4 of NRS 338.020 apply ~~H~~; and

3 (o) *A domestic service employee who resides in the household*
4 *where he or she works if the domestic service employee and his or*
5 *her employer agree in writing to exempt the domestic service*
6 *employee from the requirements of subsections 1 and 2.*

7 **Sec. 3.** NRS 608.115 is hereby amended to read as follows:

8 608.115 1. Every employer shall establish and maintain
9 records of wages for the benefit of his or her employees, showing
10 for each pay period the following information for each employee:

11 (a) Gross wage or salary other than compensation in the form of:

12 (1) Services; or

13 (2) Food, housing or clothing.

14 (b) Deductions.

15 (c) Net cash wage or salary.

16 (d) ~~Total~~ *Except as otherwise provided in section 1 of this act,*
17 *total* hours employed in the pay period by noting the number of
18 hours per day.

19 (e) Date of payment.

20 2. The information required by this section must be furnished
21 to each employee within 10 days after the employee submits a
22 request.

23 3. Records of wages must be maintained for a 2-year period
24 following the entry of information in the record.

25 **Sec. 4.** NRS 608.180 is hereby amended to read as follows:

26 608.180 The Labor Commissioner or the representative of the
27 Labor Commissioner shall cause the provisions of NRS 608.005 to
28 608.195, inclusive, *and section 1 of this act* to be enforced, and
29 upon notice from the Labor Commissioner or the representative:

30 1. The district attorney of any county in which a violation of
31 those sections has occurred;

32 2. The Deputy Labor Commissioner, as provided in
33 NRS 607.050;

34 3. The Attorney General, as provided in NRS 607.160 or
35 607.220; or

36 4. The special counsel, as provided in NRS 607.065,

37 ↪ shall prosecute the action for enforcement according to law.

38 **Sec. 5.** NRS 608.195 is hereby amended to read as follows:

39 608.195 1. Except as otherwise provided in NRS 608.0165,
40 any person who violates any provision of NRS 608.005 to 608.195,
41 inclusive, *and section 1 of this act*, or any regulation adopted
42 pursuant thereto, is guilty of a misdemeanor.

43 2. In addition to any other remedy or penalty, the Labor
44 Commissioner may impose against the person an administrative
45 penalty of not more than \$5,000 for each such violation.



1 **Sec. 6.** This act becomes effective on July 1, 2017.

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