



USDOL Is "Reaching Out" To Retail Workers

Insights

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Employers in the retail industry take note: The U.S. Labor Department's Wage and Hour Division has announced that it is "reach[ing] out to [retail] workers to educate them about their rights" under the federal Fair Labor Standards Act.

The initiative includes USDOL's publication of a "Holiday Season Employment Information" sheet designed "to help guide both employers and employees through this busy season in an informed manner."

USDOL: Business Environment Causes "Cheating"

USDOL's view is that, while some retailers violate the law inadvertently, others "deliberately cheat" employees so as not to pay legally-required wages. It asserts that, last year, thousands of retail workers were "cheated out of millions of dollars." USDOL ascribes this to the impact of "economic forces, cost-cutting pressure from shareholders[,] and competition" upon retailers' "relatively inexpensive workforce."

One example USDOL gives of a "common" violation is failing to consider employees' efforts in "prepping" or closing-out cash registers as being compensable worktime. Another is failing to pay the required overtime compensation for hours worked over 40 in a workweek. A third illustration is "[r]equiring stock room and warehouse personnel to work through breaks without being compensated."

Interestingly, an appreciable portion of the "Holiday Season Employment Information" document is devoted to matters that do *not* involve the FLSA's requirements or limitations.

The Bottom Line

Employers in the retail industry should immediately confirm that they are fully in compliance with the FLSA.

Management should anticipate that, in any USDOL investigation generated by a complaint from a current or former employee (or otherwise), the investigator will look into the "common" violations the agency mentioned. However, the scope of such an audit will not be limited to those matters.

Retailers should also be certain that they are complying with all *other* applicable laws besides the FLSA, such as state and local wage-hour requirements.

