

# 3202



**Insurance Agents  
& Brokers**

November 18, 2019

Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Sent via email to [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)

Dear Commissioners:

**RE: IA&B COMMENTS ON REGULATION #12-106: MINIMUM WAGE**

On behalf of the Insurance Agents & Brokers of Pennsylvania (IA&B), I am providing these comments on Final Form Regulation #12-106: Minimum Wage submitted by the Pennsylvania Department of Labor & Industry. IA&B is a professional trade association for independent insurance agents and brokers in Pennsylvania. Our membership is comprised of nearly 1,000 independent insurance agencies located throughout the state, providing all lines of insurance coverage to their clients.

IA&B appreciated the opportunity to provide comments on the Department of Labor & Industry's proposed regulation in 2018 as well as to participate in their roundtable discussions earlier this year. Unfortunately, we have the same basic concerns with the final form regulation as we did with the original proposal, and we respectfully urge the Independent Regulatory Review Commission (IRRC) to disapprove this final form rulemaking.

First, while IA&B understands and does not oppose the intent of the Department of Labor & Industry in updating the current salary threshold, we still are concerned about the impact of the level of increase sought in the Department's final regulation. We acknowledge that this threshold is lower than in the original proposal; however, it still amounts to an over 92% increase over the current threshold once the rule is fully implemented with automatic adjustments thereafter. Many IA&B member agencies are small businesses that have expressed concerns that such a large salary increase would force them to respond in ways that would undermine the stability of their businesses and the flexibility their employees enjoy. Such a change may force them to move many of their employees to hourly, to be much more stringent in monitoring their employees' work, and to incur significant overtime costs when mass events generate an influx of claims that are impossible to plan for due to the random nature of their business.

Second, for many independent insurance agencies, complying with differing sets of federal and state rules is both burdensome and costly. The Department of Labor & Industry's final regulation maintains discrepancies between state and federal standards, including the omission of exemptions that are available under the federal statute, two of which are important to independent insurance agencies: 1) the highly compensated employee (HCE) exemption is available at the federal level,

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but not in Pennsylvania; and 2) federal and state standards differ in terms of the outside sales exemption. The outside sales exemption in Pennsylvania currently requires an employee to spend 80% or more of his or her time on outside sales calls. IA&B is advocating for a less stringent requirement in line with the federal standard.

In addition, the U.S. Department of Labor recently announced its final rule on this same topic, the primary changes of which will take effect on Jan. 1, 2020, thus creating a situation where Pennsylvania employers potentially will have two new, differing sets of rules to contend and comply with, both of which will affect their day-to-day operations.

For these reasons, we respectfully urge the IRRC to disapprove Final Form Regulation #12-106: Minimum Wage submitted by the Pennsylvania Department of Labor & Industry.

Thank you for the opportunity to submit comments. We appreciate your consideration.

Sincerely,



Lauren Brinjac  
Government Affairs Director  
Insurance Agents & Brokers of Pennsylvania