

**From:** Robert Carl <Robert.Carl.1435281@muster.com>  
**Sent:** Friday, August 17, 2018 8:37 AM  
**To:** IRRC  
**Subject:** Regulation #12-106 Overtime eligibility rules



Dear Independent Regulatory Review Commission,

Thank you for the opportunity to comment on proposed regulations submitted by the Pennsylvania Department of Labor and Industry (L&I). These regulations are intended to update the rules that determine if an employee is required to be paid overtime.

Though this proposed regulation may be well-intended I am deeply concerned with the negative impacts on employers and many of the very employees whom the proposal is supposed to help.

L&I proposes to more than double the wage requirement to qualify for exempt status. This dramatic increase will force many employers to convert salaried employees to hourly status, which usually entails a far more rigid work schedule with less flexibility, burdensome record-keeping, fewer training opportunities and benefits. Hourly workers required to clock in and clock also risk less take-home pay if hours worked in a week dip below 40.

L&I also proposes changes to the so-called "duties test" which is used in conjunction with the salary threshold to determine exempt status. In the proposed regulation, L&I expressed a desire to align Pennsylvania's "duties test" with federal regulations. This would be a welcome change; unfortunately, the proposed rule falls short of the expressed goal.

The U.S. Department of Labor proposed a very similar regulation in 2015 and employers applauded the ruling to strike down the proposal by U.S. District Judge Amos Mazzant, who was nominated by President Obama to serve the Eastern District of Texas.

The current U.S. Department of Labor is expected to propose a new rule and Pennsylvania should hold off pursuing its own overtime update at least until the new federal rule is proposed.

Thank you for considering my views on this important matter.

Sincerely,

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