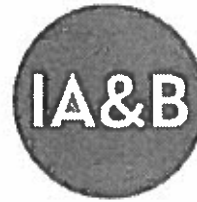


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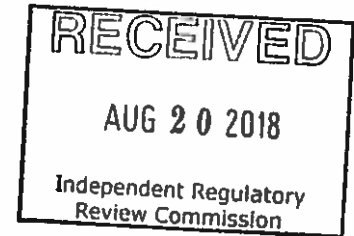
August 20, 2018



Insurance Agents  
& Brokers

Bryan M. Smolock  
Director, Bureau of Labor Law Compliance  
Department of Labor & Industry  
651 Boas Street, Room 1301  
Harrisburg, PA 17121

Sent via email to bsmolock@pa.gov



Dear Mr. Smolock:

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

On behalf of the Insurance Agents & Brokers of Pennsylvania (IA&B), I am providing these comments on proposed regulation #12-106: Minimum Wage. IA&B is a professional trade association for independent insurance agents and brokers in Pennsylvania. Our membership is comprised of nearly 1,000 member agencies located throughout the state, representing a cross-section of large and small businesses providing all lines of insurance coverage to their clients.

IA&B has concerns with the proposed amendments to Chapter 231 of 34 Pa. Code for several reasons. First, while IA&B does not oppose the intent of the Department of Labor & Industry in updating the current salary threshold, which has not been updated at the state and federal levels since 1977 and 2004, respectively, we are concerned about the impact of the excessive increase sought in the Department's proposal which will more than double the current salary threshold once the rule is fully implemented, and provide for 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. Although we appreciate the Department of Labor & Industry's stated intent to align Pennsylvania's standards for the EAP exemptions with federal standards, IA&B would like to see alignment between the federal and state requirements pursued in the area of the duties test as well. The proposed regulation still differs from federal standards and omits 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, but not in Pennsylvania; and 2) federal and state standards differ in terms of the outside sales exemption.

Bryan M. Smolock  
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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.

Lastly, we have concerns about this proposal in light of the fact that the U.S. Department of Labor is currently engaged in rulemaking on the same topic, which once settled, will also cover Pennsylvania employers. This may lead to a situation where employers have two new, differing sets of rules to contend and comply with, both of which will affect their day-to-day operations.

We appreciate your consideration of our comments. Should you have any questions please do not hesitate to contact me at 717-503-5793, ext. 607 or [LaurenB@IABforME.com](mailto:LaurenB@IABforME.com)

Sincerely,



Lauren Brinjac  
Government Affairs Director

cc: Independent Regulatory Review Commission (via email)