

ASSEMBLY BILL NO. 44—COMMITTEE ON GOVERNMENT AFFAIRS

PREFILED FEBRUARY 4, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing payment of overtime to certain employees. (BDR 53-761)

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

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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 employment practices; making employees who earn one and one-half times minimum wage or more per hour subject to the jurisdiction of the Labor Commissioner for disputes regarding overtime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Fair Labor Standards Act sets forth the minimum overtime compensation benefits required by federal law. (29 U.S.C. §§ 201 et seq.) However, states are allowed to provide employees with overtime benefits that are equal to or greater than those required under federal law. Any such overtime provisions enacted in Nevada would be enforced by the Nevada Labor Commissioner. (NRS 608.180)

Existing state law requires the payment of overtime, with certain exceptions, to employees who earn less than one and one-half times the hourly minimum wage. (NRS 608.180) Therefore, any disputes concerning the application of state overtime provisions to those employees are within the jurisdiction of the Nevada Labor Commissioner. (NRS 608.180) However, existing state law exempts employees who earn one and one-half times the hourly minimum wage or more from the state overtime provisions. (NRS 608.018) Therefore, with certain exceptions, the overtime requirements of the federal Fair Labor Standards Act apply to those employees and any disputes concerning the application of those federal overtime requirements to those employees are within the jurisdiction of the United States Department of Labor.

This bill removes the exemption in state overtime provisions for employees in Nevada who earn one and one-half times the hourly minimum wage or more and places the overtime requirement for those employees in state law. Therefore, because the overtime requirements of state law rather than federal law apply to those employees, this bill effectively provides jurisdiction over disputes relating to



23 overtime concerning those employees to the Nevada Labor Commissioner rather
24 than the United States Department of Labor.

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

- 1 **Section 1.** NRS 608.018 is hereby amended to read as follows:
2 608.018 1. ~~{Except as otherwise provided in this section, an}~~
3 **An** employer shall pay one and one-half times an employee's
4 regular wage rate whenever an employee **who receives**
5 **compensation for employment at a rate less than one and one-half**
6 **times the minimum rate prescribed pursuant to NRS 608.250**
7 works:
8 (a) More than 40 hours in any scheduled week of work; or
9 (b) More than 8 hours in any workday unless by mutual
10 agreement the employee works a scheduled 10 hours per day for 4
11 calendar days within any scheduled week of work.
12 2. **An employer shall pay one and one-half times an**
13 **employee's regular wage rate whenever an employee who receives**
14 **compensation for employment at a rate not less than one and one-**
15 **half times the minimum rate prescribed pursuant to NRS 608.250**
16 **works more than 40 hours in any scheduled week of work.**
17 3. The provisions of ~~{subsection}~~ **subsections 1 and 2** do not
18 apply to:
19 (a) Employees who are not covered by the minimum wage
20 provisions of NRS 608.250;
21 (b) ~~{Employees who receive compensation for employment at a~~
22 ~~rate not less than one and one-half times the minimum rate~~
23 ~~prescribed pursuant to NRS 608.250;~~
24 ~~—(c)}~~ Outside buyers;
25 ~~{(d)}~~ **(c)** Salesmen earning commissions in a retail business if
26 their regular rate is more than one and one-half times the minimum
27 wage, and more than one-half their compensation comes from
28 commissions;
29 ~~{(e)}~~ **(d)** Employees who are employed in bona fide executive,
30 administrative or professional capacities;
31 ~~{(f)}~~ **(e)** Employees covered by collective bargaining agreements
32 which provide otherwise for overtime;
33 ~~{(g)}~~ **(f)** Drivers, drivers' helpers, loaders and mechanics for
34 motor carriers subject to the Motor Carrier Act of 1935, as
35 amended;
36 ~~{(h)}~~ **(g)** Employees of a railroad;
37 ~~{(i)}~~ **(h)** Employees of a carrier by air;



- 1 ~~[(i)]~~ (i) Drivers or drivers' helpers making local deliveries and
2 paid on a trip-rate basis or other delivery payment plan;
3 ~~[(k)]~~ (j) Drivers of taxicabs or limousines;
4 ~~[(i)]~~ (k) Agricultural employees;
5 ~~[(m)]~~ (l) Employees of business enterprises having a gross sales
6 volume of less than \$250,000 per year; and
7 ~~[(n)]~~ (m) Any salesman or mechanic primarily engaged in
8 selling or servicing automobiles, trucks or farm equipment.
9 ~~[(3. — The provisions of this section do not apply to a)]~~
10 (n) A mechanic or workman for any hours to which the
11 provisions of subsection 3 or 4 of NRS 338.020 apply.
12 **Sec. 2.** This act becomes effective on July 1, 2005.



