

<b>Focus</b>
Small Business Issues
Economic Analysis
Commentary
<b>Connect</b>
Elected Officials
Legislation
Media Guide
State Government
<b>Learn</b>
Small Business Toolkit
Financial Planning Toolkit
Docs and Forms
Financial Calculators
<b>Member Center</b>
ChamberChat
Discounts and Services
uschamber.com Weekly
Member Services
Victories
Ask the Chamber
<input type="checkbox"/> E-MAIL NEWSLETTER

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## Commentary

### HALF A CENTURY OUT OF STEP, OVERTIME REGULATIONS NEED REFORM



By Thomas J. Donohue, President and CEO, U.S. Chamber of Commerce  
September 9, 2003

When laws are outdated and confusing, they should be changed. The 50 year-old regulations governing overtime eligibility are a perfect example. Created in the middle of the last century, the regulations go on forever but clarify nothing for today's employer. The good news is that the Labor Department wants to update them. So what's the problem? There are people who are standing in the way of reform. We fought them in the House earlier this summer and won, but now the battle has moved into a different arena.

Thanks to a strong grassroots effort, the business community narrowly defeated a House amendment that would have put the kibosh on reform. Now Sen. Tom Harkin (D-IA) is trying to attach similar language to a Senate bill to stop the rulemaking process.

Reasonable people may disagree over the precise wording of the new regulations -- but that is what the rulemaking process is all about. Interested employees, employers, and others submitted tens of thousands of comments to the Labor Department on its proposed reforms. Yet the Harkin amendment would stop the department from even considering the comments it has received. Congress should give DOL the opportunity to finish its important reform efforts.

We need reform because overtime regulations are out-of-date and don't reflect today's workplace. Our Depression-era job categories (which determine overtime eligibility) were created when the economy looked completely different from today's. The workplace has evolved -- think of all the jobs based on information and technology we now have -- but the regulations rigidly remain focused on traditional manufacturing jobs.

We need reform because overtime regs are confusing to business. Trying to comply with the laws costs business owners hours upon hours of frustration and paperwork hassle. What should be a simple test, determining whether an employee is entitled to overtime, has become a very complex one with little certainty. Even the most careful, well intentioned employer will often be unsure as to whether her or she has classified employees correctly under the regulations.

We need reform because overtime regs -- and the confusion surrounding them -- are the subject of thousands of costly lawsuits. In fact, the issue is now the most commonly litigated employment class action.

Given this overwhelming argument, why are some people running a campaign of misinformation to kill the proposed regulatory update? Well, the trial lawyers for one like to keep their practices busy. But for the rest of us, shortening the regulations by nearly 60% and creating a simplified test for determining the status of highly paid employees is absolutely necessary. Reform will make the regulations easier to implement and will let employers devote more time to what they do best: growing their business and creating new jobs.

The changes don't undercut employee rights either -- they just clarify them. And they don't undermine public safety, collective bargaining rights, or whatever other high-profile objections opponents are raising. Arm yourself with the facts and then take action.

Urge your Senators to allow the Department of Labor to continue with its rulemaking process on

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the overtime regulations (also known as the "541" regulations). Draw their attention to the fact that the regulations have not been changed since the early 1950s, are extremely difficult to understand, and need clarification and modernization.

### **Background information:**

Courtesy of KiplingerForecasts.com\*

Business Complaints Lead to Changes in New Wage Rules (April 2003)

▶ [U.S. Chamber position on FLSA reform](#)

▶ [Take action with GAIN online](#)

### **How You Can Help**

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*This article originally appeared in uschamber.com Weekly, our free e-mail newsletter featuring commentary from Chamber President and CEO Tom Donohue, economic updates, regional news, and small business tips and tools. [Click here](#) for this week's complete issue or [become a subscriber](#).*